

1913

*High Commissioner*

*South Africa*

*Certified Proclamations*

*1909-1913*



C.O.  
8872  
REC<sup>d</sup>  
REG<sup>d</sup> 15 MAR 17

SANCTIONED.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to amend the description of the area of land proclaimed as Crown Lands by Proclamation No. 10 of 1910;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order in Council 1910 I do hereby declare proclaim and make known as follows:-

1. Proclamation No. 10 of 1910 shall be and is hereby amended by the deletion of the Schedule thereto and the substitution therefor of the following Schedule:

"The area known as Lot No. 2 Peak District, Swaziland, in extent 10,968 Morgen 518 Square Roods, whereof 9968 Morgen 518 Square Roods are represented on approved Diagram S.G.No.S.34/10 and 1000 Morgen on approved Diagram S.G.No.S.101/12, comprising a portion of expired Land Concession No. 155 and the Unallotted Land U.1, to the North of Land Concession No. 155".



2. This Proclamation shall be read as one with Proclamation No. 10 of 1910 and shall be deemed to have had force and taken effect from the eighth day of April 1910.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *thirty first* day of *January* One thousand Nine  
hundred and Thirteen.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

SANCTIONED.

C.O.

8871

REC'D

15 MAR

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.


WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Lands.

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

The area of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as Lot No. 16 Mbabane District, Swaziland, provided always that the Proclamation of the said area as Crown Lands shall not affect any concession lease servitude or other right subsisting in respect of the said area which is registered at the date of such publication and is not vested in the Crown.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *twenty first* day of *January* One  
thousand Nine hundred and Thirteen.



*W. M. D. M.*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. M. D. M.*

Imperial Secretary



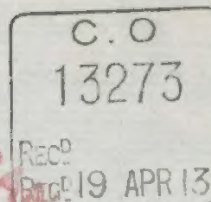
SCHEDULE

Lot No. 16

District Mbabane.

Portion of land formerly held under Land Concession  
No. 7 in extent 137 Morgen 448 Square Roods, as shewn  
on diagram No. S.G. No. S. 1/12 confirmed by the  
Surveyor General, by the figure A.B.C.D.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to amend the law relating to the prevention of diseases among animals in the Bechuanaland Protectorate.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Proclamation No. 7 of 1897 shall be and is hereby repealed.

2. The following is the interpretation of terms used in this Proclamation:-

"Disease" shall mean any of the following diseases:-

Anthrax  
Bacillary Nodrosis.  
Contagious abortion.  
East Coast Fever.  
Epizootic lymphangitis.  
Foot and Mouth disease.  
Glanders and farcy.  
Mange in equines.  
Quarter Evil.  
Rabies.  
Rinderpest  
Sheep-Pox  
Swine erysipelas  
Swine Fever  
Trypanozoonosis  
Tuberculosis

and any other disease to which stock are liable and which the High Commissioner may by Notice in the Gazette declare to be a disease for the purposes of this Proclamation.



"Government Veterinary Officer" shall mean the Government Veterinary Officer of the Bechuanaland Protectorate or the Officer for the time being acting as such.

"Infected area" shall mean an area of land declared under and for the purposes of any provision of this Proclamation to be infected with a disease.

"Police Officer" shall include European non-commissioned officers and troopers of the Bechuanaland Protectorate Police.

"Stock Inspector" shall mean any person lawfully appointed to act as such in the Bechuanaland Protectorate.

"Owner" when used in relation to any land, shall mean the registered owner thereof when he is in actual occupation of any land, and when the owner is not in occupation of his own land, the expression when so used shall mean any person who, whether as lessee, licensee, or otherwise entitled, has for the time being the charge, control, and management of that land.

"Owner" when used in relation to stock, shall mean:-

- (a) every person who is the sole or part owner thereof; or
- (b) if the sole or part owner has not for the time being the control of the stock, the person who has such control.

"Stock" shall mean cattle, sheep, goats, horses, mules, donkeys, pigs, dogs, and any other animal which the High Commissioner may, by Notice in the Gazette declare to be stock for the purposes of this Proclamation, and "cattle" shall mean bulls, oxen, cows, heifers, and calves.

"Suspected area" shall mean any area of land declared under and for the purposes of any provision of this Proclamation to be suspected of being infected with a disease.

"Special quarantine area" shall mean any area of land defined as such under and for the purposes of any provision of this Proclamation.

"Gazette" shall mean the official gazette of the High Commissioner for South Africa.

9(2) 3. Whenever any stock upon any land has become infected with disease or is suspected of being infected with disease the owner thereof shall not remove or cause or allow to be removed such stock from any land owned or occupied by him, but shall immediately report the fact or (as the case may be) the suspicion, to the nearest Police Officer or Stock Inspector, and any Police Officer or Stock Inspector may by notice to the owner of the stock and the owner of the land, declare any defined area of the said land to be a suspected area and shall when giving such notice give such instructions for the isolation of the suspected or infected stock as he may deem necessary. Such Police Officer or Stock Inspector shall further at once transmit a report to the Assistant Commissioner, or nearest Magistrate, of the District in which the outbreak or suspected outbreak has occurred. And the Assistant Commissioner or Magistrate if satisfied that a disease exists on the said land, may declare any defined area of that land, not already declared an infected area, to be an infected area.



4. A declaration of an infected area shall be by written notice signed by the Assistant Commissioner or Magistrate of the District served upon the owner of the land and the owner of the stock, and a copy thereof shall be posted at the office of the Assistant Commissioner or Magistrate of the district in which the area is situated. Every such notice shall state the boundaries of, or otherwise describe the infected area and the disease with which it is declared infected.

5. If any land within an infected area adjoin any public road, or if any public road be within an infected area, the Assistant Commissioner or Magistrate of the District shall cause notices easily legible to be affixed in a conspicuous spot at each end of that part of the road which adjoins or is within the infected area. Every such notice shall state the disease with which the area is declared infected.

6. No person shall, except upon the written permission of an Assistant Commissioner or Magistrate remove stock, liable to the disease with which an area has been declared suspected or infected, into or out of that area.

7. No person shall, except upon the written permission of an Assistant Commissioner or Magistrate move or cause to be moved from a suspected or infected area, the carcass or any part of the carcass of stock which has died, or is suspected of having died, of disease, or which has been destroyed as suffering from disease.

8. All such carcasses as are mentioned in the last preceding section shall be burnt, buried, or otherwise disposed of, in a manner, and after such acts have been done in regard thereto, as may be prescribed by the Government Veterinary Officer.



13 9. If an owner of land find thereon or if an owner of stock find amongst the same any stock which he has reason to suspect has either strayed or been illegally moved, from a suspected or infected area, on to that land, that owner may detain and isolate the stock, and shall immediately report the facts to the nearest Assistant Commissioner, Magistrate, Police Officer, or Stock Inspector. The owner of the stock which has strayed or been illegally removed shall be liable for any loss sustained by any person in respect of the straying or the illegal movement.

13 10. Anything to the contrary notwithstanding in any law or regulations relating to pounds, the reasonable expenditure incurred by an owner of land or stock in isolating, feeding, treating, or herding any stock in the circumstances mentioned in the last preceding section shall be a debt due to him from the owner of the stock, and the first named owner shall, subject to the powers of the Resident Commissioner under this Proclamation, have a right of retaining the stock or any other property in his possession belonging to the last named owner until the whole of that debt be paid.

11. If in an infected area any stock be found which is reasonably suspected of having strayed therein, or of having been illegally moved thereto, whether before or after the area was declared infected, that stock shall be immediately isolated by the person finding the same, who shall immediately report the finding of the stock to an Assistant Commissioner, Magistrate, Police Officer, or Stock Inspector. An Assistant Commissioner or Magistrate may, after the stock has been examined by a veterinary



surgeon or stock inspector deal with it as he may determine, regard being had to all the circumstances and to the condition of the stock as regards disease.

12. Anything to the contrary notwithstanding in any law or regulation relating to pounds, no person shall confine in any pound any stock infected or suspected of being infected with disease.

13. Any infected stock may be removed under the authority of an Assistant Commissioner, Magistrate, Police Officer, or Stock Inspector to a special quarantine area which may be established and defined by Notice issued by the Resident Commissioner. It shall be the duty of the owner of such stock to furnish a sufficient number of herds for the proper tending of the stock while detained within the special quarantine area. The stock inspector in charge of a special quarantine area shall immediately report to the nearest Assistant Commissioner or Magistrate whenever it appears that either through insufficient herds, or through carelessness such stock is allowed to stray beyond the boundaries of the special quarantine area, or that the treatment as prescribed by the Government Veterinary Officer is not properly carried out, and the Assistant Commissioner or Magistrate may at his discretion order that additional herds be employed at the cost of the owner for the proper herding of such stock, and such stock shall be detained within the special quarantine area until the expenses incurred on the employment of such extra herds be paid.

14. The Government Veterinary Officer or any officer specially deputed by him, shall, in the event of any stock being found to be infected with any of the following

diseases, proceed as in this section is provided, that is to say:-

- (1) If any equine is visibly infected with Glanders he shall cause it to be destroyed, and if he deems it desirable to subject to a Mallein test any other equine in order to prevent the spread of Glanders, he shall cause all such equines as react to the test to be destroyed.
- (2) If any stock be visibly infected with tuberculosis he shall cause it to be destroyed, and shall subject to a tuberculin test any stock which has been or is suspected of having been in contact with any stock so infected, and he may, in his discretion, subject to such test any stock susceptible to tuberculosis and cause any stock reacting to the test to be destroyed or dealt with in such manner as he may direct or to be isolated in accordance with his instructions.

15. The Resident Commissioner shall in addition to any other powers conferred by this Proclamation have the following powers, namely:-

- (a) To prohibit or order or permit the removal of stock from one place, zone, or area within the Bechuanaland Protectorate to another place, zone, or area within the Bechuanaland Protectorate;
- (b) to cause the carcasses or hides of stock which have been destroyed or have died from disease to be buried or otherwise disposed of on any land, and to prohibit the removal of any such carcass or portion thereof, whether or not the



same has been buried or otherwise disposed of;

- (c) to cause any stock which has been removed in contravention of this Proclamation to be destroyed or otherwise dealt with;
- (d) to cause any stock infected or suspected of being infected with any disease to be destroyed;
- (e) to order or cause any stock within an infected area to be inoculated, dipped, sprayed, or otherwise disinfected or treated or to be branded, muzzled, or otherwise secured in such manner as he may prescribe;
- (f) to prescribe routes along which stock or any particular species of stock may be driven or conducted, to close routes for the driving or conducting of stock or any particular species of stock and to suspend the traffic of stock or any particular species of stock along any route;
- (g) to cause the grass or grass-hay on any land within an infected or suspected area to be burned after any stock has been destroyed thereon or removed therefrom;
- (h) to prohibit the removal from any place of any forage, grass-hay, grass, rushes or any other article or living thing likely to convey or spread any disease.
- (i) to prohibit the holding of any live stock market, fair, or show, if he considers that the holding thereof would be likely to spread any disease, or in like circumstances to

- prohibit

prohibit the sale or purchase of stock within an infected or suspected area, except under such conditions as he may prescribe;

- (j) to order or cause to be disinfected in such manner as he may prescribe any structure or enclosure in which stock has been confined, and any railway rolling stock, wherever situated within the Bechuanaland Protectorate and to whomsoever belonging, which has been used or is intended for the conveyance of stock;

- (k) to order or cause to be disinfected or otherwise treated any hides, skins, horns, hoofs, wool, mohair, or feathers, or any articles or things likely to spread a disease, if the same have been in an infected or suspected area.

16. The Government Veterinary Officer or any Police Officer or Stock Inspector may enter upon any land, premises, or vehicle within the Bechuanaland Protectorate for the purpose of carrying out any power conferred, or duty imposed, upon him by this Proclamation, and may take with him upon any such land, premises, or vehicle, such assistants, and any animal, vehicle, instrument, appliance, drug or other thing whatsoever which will enable him more effectually to carry out any such power or duty.

17. Any person who obstructs, or hinders, or restricts any officer mentioned in the last preceding section, in the exercise of any such power or duty, or does, or attempts to do, any injury to any such animal,



vehicle, instrument, or appliance, drug or other thing aforesaid, shall be guilty of an offence.

18. The Government Veterinary Officer or any Stock Inspector may in the case of any stock infected or suspected of being infected with disease, cause one or more of the stock to be destroyed for the purpose of making a post-mortem examination thereof in order to determine the nature of the disease and may make such an examination.

19. Whenever it comes to the knowledge of the Government Veterinary Officer or any stock inspector that any animal which has died or been slaughtered was infected or suspected of being infected with a disease he shall, if possible, examine the carcase or the viscera thereof as the circumstances require.

20. Any person who, in any suspected or infected area, is found collecting ticks or any other living thing or any article or moves any infected stock, with intent to infect stock therewith or to spread amongst stock any disease, shall be guilty of an offence and liable on conviction to a fine of Five hundred pounds or to imprisonment with hard labour for a period not exceeding five years or to both such fine and imprisonment.

21. Any person who within the Bechuanaland Protectorate is found in possession of ticks or any other living thing or any article, with the intent mentioned in the last preceding section shall be guilty of an offence and liable on conviction to the penalties in that section mentioned. The burden of disproving any such intent shall in any prosecution under this or the last preceding section lie on the accused person.

22. Any person who -

- (a) is guilty of an offence against, or contravenes any provision of this Proclamation or regulations made thereunder, or fails to comply with any such provision as and when it is his duty so to comply; or
- (b) contravenes, disobeys, or fails to comply with any lawful order of the Resident Commissioner or the Government Veterinary Officer or any other officer,

shall if no penalty be specially provided, be liable to a fine not exceeding One hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

23. Where in any charge under this Proclamation it is necessary to ascertain whether any accused person suspected or had reasonable grounds for suspecting the existence of any fact, the burden of proving that such person did not so suspect or had no reasonable grounds for so suspecting shall lie upon the accused.

24. A certificate under the hand of any Government analyst or bacteriologist or of the Government Veterinary Officer shall in any prosecution under this Proclamation, be prima facie evidence of the facts stated therein and it shall not be necessary for the prosecution to tender the oral evidence of any such analyst, bacteriologist, or Government veterinary officer in support of the



statements made or opinions given in the certificate, unless the Court specially direct, in which case the Court shall grant a remand to enable the person whose presence is required to attend.

25. The High Commissioner may from time to time by notice in the Gazette make alter or revoke regulations, not inconsistent with this Proclamation, providing for the isolation, inoculation, disinfection, treatment, testing, dipping, branding, removal and destruction of stock; the mode of disposal of carcasses of stock dying or suspected of having died of disease or which have been destroyed because infected or suspected of being infected with disease; the disinfection of roads, kraals, railway trucks, vehicles, harness stables, sheds or pens; the removal and disinfection within the Protectorate of hides, skins, wool, mohair, and feathers and other articles likely to spread disease; the restriction or prevention of movements of persons where any such movements are likely to spread disease; and generally for the prevention of the spread of disease within the Protectorate.

26. Nothing in this Proclamation contained shall conflict, or in any way interfere with the provisions of Proclamation No. 11 of 1907 dealing with the disease of Scab in sheep and goats or of Proclamation No. 2 of 1909 dealing with the disease of Pleuro-Pneumonia.

27. This Proclamation may be cited as the Bechuanaland Protectorate Stock Diseases Proclamation 1913, and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *fourteenth* day of *March*. One thousand  
Nine hundred and Thirteen.



*[Signature]*

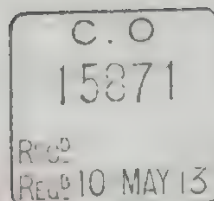
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.





P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to protect from interference any brand registered under Proclamation No. 7 of 1907:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Regulation No.7 made under and by virtue of Section eighteen of Proclamation No. 7 of 1907 and published by High Commissioner's Notice No. 73 of 1912 shall be and is hereby repealed.

2. Any person who shall wilfully blotch deface or otherwise render illegible or alter any brand registered under Proclamation No. 7 of 1907 whether by the printing of any other brand over a brand so registered or otherwise or who shall wilfully direct cause or permit any brand so registered to be blotched

defaced or otherwise rendered illegible or altered as aforesaid or be a party thereto shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds or in default of payment of such fine to imprisonment with or without hard labour for a period not exceeding fourteen days.

3. This Proclamation shall be read as one with Proclamation No. 7 of 1907 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *fifth* day of *April* One thousand  
Nine hundred and Thirteen.



*Sturges*

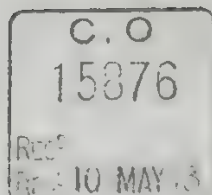
High Commissioner

By Command of His Excellency  
the High Commissioner.

*Ch. M. M.*

Imperial Secretary.





P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to proclaim certain portions of Land in Swaziland to be Crown Lands;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order in Council 1910 I do hereby declare proclaim and make known as follows:-

The areas of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as numbered in the said Schedule; provided always that the Proclamation of the said areas as Crown Lands shall not effect any Concession lease servitude or other right subsisting in respect of any of the said areas which is registered at the date of such publication and is not vested in the Crown

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Cape Town*  
this *fifth* day of *April* One thousand  
Nine hundred and Thirteen.



*[Signature]*

High Commissioner

by Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.



S C H E D U L E

Lot No. 17 District Mbabane.  
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Portion of land held under Land Concession No. 202 in extent 1739 morgen 487 square roods, as shewn on diagram S.G.No.S.113/10 confirmed by the Surveyor-General by the figure K.L.D.E.

Lot No. 18 District Mbabane.  
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Portion of land formerly held under Land Concession No. 23 in extent 2410 morgen 516 square roods, as shewn on diagram S.G.No.S.200/10 confirmed by the Surveyor-General by the figure A.B.C.D.K. mid Little Usutu River to its junction with Utsenzinss Spruit at L. mid Utsenzinss Spruit to L.N.C.P.Q.A.

Lot No.19 District Mbabane (South)  
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Portion of land held under Land Concession No. 169 in extent 4786 morgen 379 square roods as shewn on diagram S.G.No.S.41/12 confirmed by the Surveyor-General by the figure A, mid Assegai River B.C.D.E.F.G.H.J.K.L. M.N.O.P.A.

Lot No. 20 District Mbabane (South)  
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Portion of land held under Land Concession No.169 in extent 766 morgen 163 square roods as shown on the diagram S.G.No.S.37/12 confirmed by the Surveyor-General by the figure A.B.C.D.A.

Lot No.21 District Mbabane (South)  
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Portion of land held under Land Concession No.169 in extent 1687 morgen 329 square roods as shown on diagram S.G.No.S.39/12 confirmed by the Surveyor-General by the figure A. mid Dudusa River B.C.D.E.F.G.H.J.K. mid Assegai River to junction A.

Lot No.22 District Mbabane (South)  
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Portion of land held under Land Concession No. 169 in extent 247 morgen 338 square roods as shown on diagram S.G.No.S.40/12 confirmed by the Surveyor-General by the figure A.B.C.D.A.

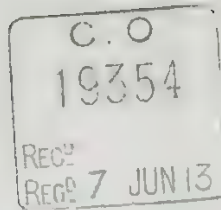
Lot No.23 District Mbabane (South)  
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Portion of land held under Land Concession No.169 in extent 4668 morgen 237 square roods as shown on diagram S.G.No.S.25/10 confirmed by the Surveyor-General by the figure A. mid Hlozani River to junction with spruit at b, mid spruit to A.G.H.K.L. mid Tchelele Spruit to M.n.Z.A.

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o. 6 of 1913.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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*Sanctioned*

*with Commr*

WHEREAS it is expedient to proclaim certain portions of land in Swaziland to be Crown Lands;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 and as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order in Council 1910 I do hereby declare proclaim and make known as follows:-

The areas of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as numbered in the said Schedule; provided always that the Proclamation of the said areas as Crown Lands shall not affect any concession lease servitude or other right subsisting in respect of any

of the said area which is registered at the date  
of such publication and is not vested in the Crown.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Lape Town*  
this *twentyfifth* day of *April* One thousand  
Nine hundred and Thirteen.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.



SCHEDULE

Lot No: 24 District Mlatikulu.

Portion selected under the provisions of the Swaziland Concessions Partition Proclamation 1907 from the Farm known as Geluk No. 100 A being portion of land held under Land Concession No. 1 P in extent 547 Morgen 6 Square Roods as shewn on diagram S.G. No. S 97/12 confirmed by the Surveyor General by the figure A,B,C, mid Spekboom River D,A.

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Lot No. 25 District Peak.

Portion of land held under Land Concession No. 3 L in extent 475 Morgen 430 Square Roods as shewn on diagram No. S.G.No.S. 100/12 confirmed by the Surveyor General by the figure A,B,C, mid River to junction with Spruit at D mid Spruit E,F,G,A.

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Lot No. 26 District Mbabane North.

Portion of land formerly held under Land Concession Nos. 16 P, 10 P, 133 L, 117 L and 121 L, in extent 4637 Morgen 301 Square Roods as shewn on diagram S.G. No.S. 156/11 confirmed by the Surveyor General by the figure A,B,C, mid Muliwe Spruit to E,F,G,H, mid Road J,K,L, mid Road M,M, mid Motsam Spruit to A.

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Lot No. 27 District Mbabane South

Portion of land held under Land Concession No.169 in extent 1532 Morgen 320 Square Roods as shewn on diagram S. G.No.S. 42/12 confirmed by the Surveyor General by the figure A,B,C,D,E,F,A.

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10.7 of 1913

C.O.  
20239

14 JUNE 1913

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision out of the public revenue or other funds of Swaziland for the service of the year ending the thirty-first day of March 1914:

NOW KNOW YE, that under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. The public revenue or other funds of Swaziland are hereby charged towards the service of the year ending the thirty-first day of March 1914 with a sum of £57,35 (fifty-seven thousand three hundred and twenty-five pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule hereto annexed, and more particularly specified in the estimates of the expenditure of Swaziland for the year ending the thirty-first day of March 1914 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Swaziland Appropriation Proclamation 1913 and shall have force and take effect from the first day of April 1913.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Lape Town*  
this *22nd* day of *May* One thousand Nine hundred  
and Thirteen.



*W. H. D. D. D.*

High Commissioner  
by Command of His Excellency  
the High Commissioner.

*W. H. D. D. D.*

Imperial Secretary.



B U D G E T

Ordinary Expenditure.

<u>No.</u>	<u>Head of Service</u>	<u>Amount</u>
1.	Establishments	211, 886
2.	Police	14, 078
3.	Transport	1, 000
4.	Posts and Telegraphs	1, 74
5.	Administration of Justice	1, 33
6.	Public Works Recurrent	1, 150
7.	Medical	1, 43
8.	Education	1, 471
9.	Veterinary	306
10.	Allowances etc. to Native Chiefs	1, 300
11.	Pensions	951
12.	Interest	5, 600
13.	Refunds of Revenue	50
14.	Miscellaneous	1, 50
15.	Sinking Fund	1, 054
16.	Deeds Registry and Survey	
	Services	<u>1, 030</u>

49, 945

Extraordinary Expenditure

<u>No.</u>	<u>Head of Service</u>	<u>Amount</u>
17.	Public Works Extraordinary	4, 145
18.	Concessions and Partition Expenses	550
19.	Repatriation of East Coast Fever.	1, 85
20.	Orange Township Water supply	<u>400</u>

7, 380

557, 325

C.O  
20240

14 JUN 1914

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to make provision out of the public revenue or other funds of the Bechnagsland Protectorate for the service of the year ending the thirty-first day of March 1914;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The public revenue or other funds of the Bechnagsland Protectorate are hereby charged towards the service of the year ending the thirty-first day of March 1914 with a sum of £65,967 (Sixty-five thousand nine hundred and sixty-seven pounds ).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the Estimates of the Expenditure of the Protectorate for the year ending the thirty-first day of March 1914 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

- - -

4. This Proclamation may be cited as the  
Bechuanaland Protectorate Appropriation Proclamation 1913  
and shall have force and take effect from the first  
day of April 1913.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Lape Town*  
this *tenth* day of *May* One thousand nine  
hundred and thirteen.



*W. M. M. M.*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. H. M. M.*

Imperial Secretary



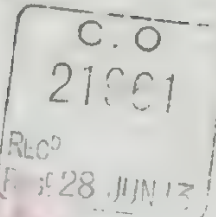
SCHEDULE

<u>No.</u>	<u>Head of Service</u>	<u>Amount</u>
1.	Pensions	£ 1,341
2.	Resident Commissioner	3,968
3.	Legal	7,450
4.	District Administration	5,338
5.	Posts	7,810
6.	Customs	50
7.	Police	34,113
8.	Miscellaneous	6,780
9.	Public Works Recurrent	1,000
10.	Public Works Extraordinary	7,650
11.	Medical	1,100
12.	Education	1,547
13.	Veterinary	1,860
14.	Destruction of Pests	250
		<hr/>
		£ 65,967
		<hr/>

Encl. 1 in despatch 416

1/6/13

No. 9 of 1913



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS a certain Compensation Scheme in respect of Land Concession No. 200 L. prepared by the Special Commissioner for Swaziland under Proclamation No. 15 of 1909 and confirmed by the High Commissioner was varied by Proclamation No. 44 of 1912;

AND WHEREAS it is expedient further to vary the said Scheme;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. The description of the Compensation Scheme in respect of Land Concession No. 200 L. set forth in the First Schedule to High Commissioner's Proclamation No. 44 of 1912 shall be deleted and the following description substituted therefor:-

"(1) A portion of Unallotted Land within the area selected from Concession No. 48 L. a grazing right.

"From -

"From beacon L194 to beacon L193 thence up the Transvaal-Swaziland river boundary to beacon L193A, thence along the line L193A-L195 to beacon MR1 (a shifting beacon), thence to beacon M, a beacon South of Malan's house and thence back to beacon L194

"Beacon MR1 shall be so placed that the area thus described is in extent 172 morgen 147 square roods.

"(2) A small triangle, in extent 86 morgen 530 square roods, being a portion selected from Perpetual Land Concession No. 27 P. within the selection from Concession No. 48 L.

"From beacon L193 to beacon L194, thence to beacon "S" on the line L193 - L193B and thence back to beacon L193".

"Beacon "S" shall coincide with the South-Western corner beacon of the Selection from Concession No. 48 L.

"(3) A portion of the cancelled portion of Land Concession No. 168 L.

"From beacon L193 to beacon "S" (referred to in paragraph 2 above) and thence to beacon MR2 (a shifting beacon on the Hloosen River and thence back to beacon L193.

"Beacon MR2 shall be so placed that the area thus described is in extent 58 morgen 399 square roods".

2. The said Compensation Scheme shall be deemed to have taken effect as hereby varied on the date when



confirmation of the said Scheme was first notified in  
the Gazette, namely the 31st day of December 1909

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *28<sup>th</sup>* day of *May* One thousand Nine  
hundred and Thirteen.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

No. 10 of 1913

C.O.  
21963

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is expedient to provide for the more efficient registration of Voters of Southern Rhodesia in conformity with the provisions of the "Voters Qualification and Registration Amendment Ordinance, 1912", I hereby proclaim and make known as follows:-

The Schedules marked B and C to the Acting High Commissioner's Proclamation dated 26th day of November, 1898, are hereby deleted from the said Proclamation, and in lieu thereof the Schedules set out below shall be the Schedules respectively.

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Cape Town*  
this *thirtieth* day of *May*      One thousand  
nine hundred and Thirteen.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary

SCHEDULE B

Claim to be registered as a Voter.

Electoral District .....

Registration Area .....

Name in Full	Residence	Occupation, Trade, Profession, or Other Descrip- tion.	X Qualification - (1) Occupation, or (2) Ownership of Mining Property, or (3) Salary or wages.
--------------	-----------	---	--

I, the undersigned, hereby declare that I am to the best of my knowledge and belief, entitled to be registered as a voter in virtue of the qualification set opposite my name above; that I have myself, without allowing my hand to be guided by any person, filled in my name, residence, occupation and qualification, and that I attach my signature to this declaration without any such aid.

.....  
Signature of Claimant.

X If qualification otherwise  
than by salary or wages,  
state situation of property  
in respect of which claim  
is made.

.....  
I, the undersigned, being a competent witness, resident at..... do hereby declare that ..... has in my presence himself and without his hand being guided by any other person, filled in his name, residence, occupation, and qualification, and attached his signature to the above declaration.

.....  
Signature of Witness

Signed this ..... day of..... 191.



SCHEDULE C.

List of persons appearing to be qualified to vote at elections  
of members of the Legislative Council in area .....  
in the Electoral District of .....

(Signature) .....

Registering Officer.

---

No.	Name in full	Residence	Occupation, Trade, Profession, or other Description.	Qualification.	Situation of Property in respect of which qualification exists.
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*For authentication at*

*Adm.*

No. 11 of 1913.]

## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to amend the Basutoland Native Labour Further Amendment Proclamation 1912 (No. 48 of 1912) hereinafter referred to as "the said Proclamation";

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section *three* of the said Proclamation shall be and is hereby amended by the addition at the end thereof of the following words:—

"Where any native is convicted of an offence under this section the Court before which he is convicted may after recording the conviction inquire summarily into any complaint made by the labour agent by whom he was engaged that such native has failed to repay the amount of any advance made by such labour agent and may make an order requiring such native to repay to such labour agent so much of any advance lawfully made by such agent in accordance with section *five* of this Proclamation as remains outstanding; provided that no advance accepted by any native in contravention of paragraph (b) of this section shall be recoverable hereunder. Any such order shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such Court."

2. This Proclamation shall be read as one with the said Proclamation and shall take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Thirteenth day of June One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

**PROCLAMATION**

By His Excellency THE HIGH COMMISSIONER.

BY virtue of the provisions of clause *six* of the Order of His Majesty in Council dated the 7th day of March 1913 hereunto annexed it is hereby proclaimed and made known that the said Order shall come into operation in Southern Rhodesia in Basutoland in the Bechuanaland Protectorate and in Swaziland on the First day of July 1913.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Thirteenth day of June One thousand Nine hundred and Thirteen.

GLADSTONE.

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

AT THE COURT AT BUCKINGHAM PALACE,

The 7th day of March, 1913.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY,

LORD PRESIDENT.	LORD CHAMBERLAIN.
LORD PRIVY SEAL.	LORD PARKER.
MASTER OF THE HORSE.	SIR CECIL SPRING-RICE.

Whereas by an Order of His late Majesty King Edward the Seventh in Council, dated the 8th day of August, 1901, it was provided that, subject to the provisions of such Order, the Fugitive Offenders Act, 1881, should apply as if the Territories named in the First Schedule of such Order were a British Possession and that Part II of the said Act should apply to the Colonies, Possessions and Territories mentioned in the First and Second Schedules of such Order;

And whereas the Territories specified in Schedule I of the said Order were the Bechuanaland Protectorate, Southern Rhodesia, Barotsiland—North-Western Rhodesia, the British Central Africa Protectorate, and North-Eastern Rhodesia, and the Colonies and Possessions specified in Schedule II thereof were the Colony of the Cape of Good Hope, the Colony of Natal, Basutoland, the Orange River Colony, and the Transvaal;

And whereas by a further Order of His late Majesty in Council, dated the 1st day of June, 1907, the said Order in Council was amended by the insertion of Swaziland amongst the Territories mentioned in clause *two* (a) and Schedule I of the said Order;

And whereas by an Order of His said late Majesty in Council, dated the 6th day of July, 1907, and known as the Nyasaland Order in Council, 1907, it was amongst

other things provided that the Territories theretofore known as the British Central Africa Protectorate should be known as the Nyasaland Protectorate, and that a Governor and Commander-in-Chief should be appointed in and over the said Protectorate in place of a Commissioner;

And whereas under and by virtue of an Act passed in the 9th year of His said late Majesty's reign, shortly entitled the South Africa Act, 1909, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony have been united in a Legislative Union under one Government under the name of the Union of South Africa, and now form Provinces of the said Union;

And whereas by an Order of His Majesty in Council, dated the 4th day of May, 1911, and known as the Northern Rhodesia Order in Council, 1911, the Territories theretofore known as Barotsiland—North-Western Rhodesia and North-Eastern Rhodesia were included within the limits of the said Order, and it was amongst other things provided that the Territory within the limits of the said Order should be known as Northern Rhodesia;

*For authentication at.*

*[no sanction given]*



And whereas it is expedient to consolidate and amend the above recited Orders of His late Majesty King Edward the Seventh in Council, dated the 8th day of August, 1901, and the 1st day of June, 1907;

And whereas by treaty, capitulation, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction in and over the Territories known as the Bechuanaland Protectorate, Southern Rhodesia, Northern Rhodesia, Swaziland, and the Nyasaland Protectorate;

Now, therefore, His Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the South Africa Fugitive Offenders Order in Council, 1913.

2. Subject to the provisions of this Order the Fugitive Offenders Act, 1881, shall apply as if the Territories named in the First Schedule of this Order were a British Possession.

3. In the Fugitive Offenders Act, 1881, as hereby applied to the Territories named in Schedule I of this Order, and in this Order with reference to the said Territories, unless the context otherwise requires, the expression "Governor" means the officer for the time being exercising the functions—

(a) As regards the Bechuanaland Protectorate, Southern Rhodesia, Northern Rhodesia, and Swaziland, of the High Commissioner for South Africa.

(b) As regards the Nyasaland Protectorate, of the Governor of the Protectorate.

4. The jurisdiction under Part I of the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return, may be exercised in the Territories named in Schedule I of this Order by any person having in the said Territories authority to issue a warrant for the apprehension of persons accused of crime and to commit such persons for trial.

5. Part II of the Fugitive Offenders Act, 1881, shall apply to the British Possessions and Territories mentioned in Schedules I and II of this Order.

6. The Governor of each of the British Possessions and Territories named in the Schedules of this Order shall cause this Order to be proclaimed therein, and this Order shall come into operation on a day to be fixed by such Proclamation.

7. The Orders of His late Majesty King Edward the Seventh in Council, dated the 8th day of August, 1901, and the 1st day of June, 1907, shall as from the date of the coming into operation of this Order be revoked, without prejudice to anything lawfully done thereunder, or to any proceedings commenced before the said date.

ALMERIC FITZROY.

#### SCHEDULE I.

The Bechuanaland Protectorate.  
Southern Rhodesia.  
Northern Rhodesia.  
Swaziland.  
The Nyasaland Protectorate.

#### SCHEDULE II.

The Union of South Africa.  
Basutoland.

(Printed by the Government Printer, Pretoria.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 16 of 1911 by making further provision for facilitating in certain cases the transfer to the High Commissioner of land which is required by law to be so transferred:

NOW KNOW YE, that under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section two of Proclamation No. 16 of 1911 shall be and is hereby amended by the addition thereto of the following sub-section, as sub-section (2) thereof, the present section two becoming sub-section (1) of section two :-

(2) Where by publication in two successive issues of the Gazette or by registered letter posted to the last known address of the person concerned the Registrar of Deeds has under sub-section (1) of this section given notice calling upon the owner or owners of any land concession to produce their title deeds and the diagram or diagrams of such concession, and such owner or owners have failed to produce such deeds and diagrams within four months after the second publication of such notice or after the date on which

such registered letter would have been delivered in ordinary course of post, it shall be competent for the Surveyor-General to deduct any such areas as are mentioned in subsection (1) of this section from the diagrams of the concession filed in his office and in the office of the Registrar of Deeds, and for the Registrar of Deeds to register the area or areas so deducted in the name of the High Commissioner and to note such transfer on the duplicate originals or copies of the title deed or deeds affected filed in his office; and such registration shall be deemed to be a valid transfer, and the Registrar of Deeds shall issue to the High Commissioner a certificate of title to the area or areas thus transferred into his name and shall notify the transfer in the Gazette.

2. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any Proclamation amending the same and shall have force and effect from the date of its publication in the Gazette.

GOOD BYE THE KING!

Given under my Hand and Seal at *Pretoria*  
this *second* day of *August* One thousand Nine  
hundred and Thirteen.



*H. H. H. H.*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. J. M. M.*

Imperial Secretary



*For authentication Set.*

*Adm. v.*

No. 14 of 1913.]

**PROCLAMATION**

By His Excellency the High Commissioner.

WHEREAS it is expedient to amend the Basutoland Marriage Proclamation 1911 hereinafter referred to as the principal law;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section five of the principal law shall be and is hereby amended by the deletion therefrom of the words beginning with "No Assistant Commissioner" down to the end of the section, and the substitution therefor of the following:—

"Provided that no Assistant Commissioner shall issue such licence if it appear to him that the parties applying for the same are desirous of marrying in Basutoland to evade the law in force in any other Colony or Territory of South Africa, and provided further that if either or both parties are natives of Basutoland the Assistant Commissioner may require fourteen days' notice to be given of the intention to apply for such licence."

2. This Proclamation may be cited for all purposes as the Basutoland Marriage Amendment Proclamation 1913 and shall be read as one with the principal law and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Second day of August One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

*For authentication see.*

No. 15 of 1913.]

**PROCLAMATION**

By His Excellency the High Commissioner.

WHEREAS it is expedient to amend the Basutoland Council Proclamation 1910 (herein after referred to as the principal law) in certain respects;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section *two* of the principal law shall be and is hereby amended by the addition at the end of sub-section (2) thereof of the following words:—

“and shall be styled Chief Councillor and it shall be his duty at each meeting of the Council either to be present in person or to be represented by some member of the Council appointed by him for the purpose.”

2. Section *three* of the principal law shall be and is hereby amended by the addition at the end of sub-section (2) thereof of the following words:—

“and shall be publicly notified by the Resident Commissioner not later than the last day of the same month.”

3. Section *ten* of the principal law shall be and is hereby amended by the addition at the end thereof of the following words:—

“notwithstanding anything contained in this section it shall be lawful for the President if he shall think fit to allow the discussion of any matter which though arising outside the territory nevertheless affects the affairs of the Basuto people.”

4. Section *eleven* of the principal law shall be and is hereby amended by the addition at the end thereof of the following words:—

“The Resident Commissioner shall lay before the Council at its next ensuing session such replies to any such resolutions as the High Commissioner may desire to be communicated to the Council.”

5. This Proclamation may be cited for all purposes as the Basutoland Council Amendment Proclamation 1913 and shall be read as one with the principal law and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Second day of August One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

*For authentication set.*

*Acknowledged*

No. 16 of 1913.]

**PROCLAMATION**

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Basutoland Native Tax Proclamation 1911 (No. 3 of 1911) herein after referred to as the said Proclamation.

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section *seven* of the said Proclamation shall be and is hereby amended by the addition at the end thereof of the following:—

“Before any arrest is made under this section steps shall where possible be taken to inform the Paramount Chief or the Chief of the district of the intention to make such arrest.”

2. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Second day of August One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is provided by the paragraph in article two of the Southern Rhodesia Order in Council 1903 marked 17 (2) that notwithstanding anything contained in the Southern Rhodesia Order in Council 1898 the High Commissioner may from time to time with the approval of a Secretary of State alter any provision of the said Order of 1903 or of the said Order of 1898 relating to the constitution of the Legislative Council of Southern Rhodesia if the said Council shall resolve that such alteration and amendment be made, subject to a proviso therein contained as to the majority by which such resolution shall in certain cases be passed;

AND WHEREAS it is expedient to alter the numbers of the said Legislative Council as fixed by the paragraph of Article two of the Southern Rhodesia Order in Council 1903 marked 17 (1) as amended by Article three of the Southern Rhodesia Order in Council 1911;

AND WHEREAS a resolution in favour of the proposed alteration has been duly passed by the said Council, and such alteration has been approved by His Majesty's Secretary of State for the Colonies.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. In the paragraph of Article two of the Southern Rhodesia Order in Council 1903 which is marked 17 (1) as amended by Article three of the Southern Rhodesia Order in Council 1911 the word "eighteen" is hereby substituted for the word "twelve"; the word "six" is hereby substituted for the word "five"; and the word "twelve" is hereby substituted for the word "seven".

2. This Proclamation shall have force and take effect from such date as may be notified by the High Commissioner by Notice in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Pretoria*  
this *twenty third* day of *August* - One thousand Nine  
hundred and *thirteen*.



*[Handwritten signature]*

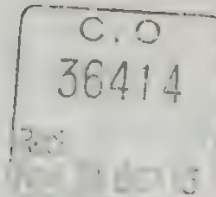
High Commissioner

and of His Excellency

the High Commissioner

*[Handwritten signature]*

Imperial Secretary



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is expedient to proclaim a certain  
portion of land in Swaziland to be Crown Land;

NOW THEREFORE under and by virtue of the  
powers authorities and jurisdiction conferred upon and  
committed to me by His Majesty under the Swaziland  
Order in Council 1903 as amended by the Swaziland Order  
in Council 1906 and the Swaziland Order in Council 1909  
and by virtue of the further authority conferred upon me  
under the Swaziland Crown Lands and Minerals Order in  
Council 1908 as amended by the Swaziland Crown Lands  
and Minerals Amendment Order in Council 1910, I do  
hereby declare proclaim and make known as follows:-

The area of land in Swaziland described  
in the Schedule to this Proclamation shall from the  
date of the publication of this Proclamation in the



- 3 -

Gazette be Crown Land and shall be registered and known as Lot No. 28, District Ubombo, Swaziland, provided always that the Proclamation of the said area as Crown Land shall not affect any Concession lease servitude or other right subsisting in respect of the said area which is registered at the date of such publication and is not vested in the Crown.

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Pietermaritzburg*  
this *the 12th* day of *September* One thousand Nine  
hundred *and* Thirteen.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

SCHEDULE

Portion of land held under Land Concession No. 139 in  
extent 5220 morgen 162 square rods as shewn on Diagram  
S.G.No.S.162/10 confirmed by the Surveyor-General by  
the figure A,B,C,K mid Ndindinhlovu Spruit to J,H along  
H-E to intersection of footpath, along footpath to its  
junction with Tembe Road, along Eastern edge of Tembe  
Road to its junction with footpath, along footpath to  
where it crosses Mnyama River at P mid Mnyama River to G,A.

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No. 19 of 1913.]

**PROCLAMATION**

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is expedient to consolidate and amend the law in Swaziland regulating and controlling the procuring and engaging of natives to work or labour within or beyond the borders of the said Territory;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

1. The Labour Agents' and 'Compound Overseers' Proclamation 1901 of the Transvaal as amended and in force in Swaziland, together with the Regulations framed thereunder and contained in High Commissioner's Notices No. 66 of 1910, No. 8 of 1912, No. 20 of 1912 and Proclamation No. 11 of 1912 shall be and are hereby repealed.

2. In this Proclamation unless inconsistent with the context:

"advance" shall include any sum of money in cash or any substitute therefor in any form whatsoever supplied to a native upon the condition that he shall repay or make good the same by his labour or out of the wages to be received by him under a contract of service with any person;

"Assistant Commissioner" shall mean any Assistant Commissioner appointed to an area defined under section eleven of the Swaziland Administration Proclamation 1907 or any Deputy-Assistant Commissioner appointed to such area;

"employer" shall mean the person with whom a native has entered into a contract for service in Swaziland which has been attested under this Proclamation, and shall in the case of a company or association mean the responsible manager in Swaziland, and if there be no manager in Swaziland then the person responsible for the control, management or direction thereof in Swaziland;

"labour agent" shall mean and include any person who shall himself or through runners, in his own name or otherwise recruit natives to be employed in labour or work of any kind beyond the borders of Swaziland;

"mine" shall have the same meaning as is assigned to the term in any law regulating the supervision of mines, works and machinery in Swaziland;

"native" shall mean any member of the aboriginal races or tribes of Africa;

"native chief" shall include any native having authority or control over other natives whether direct or otherwise according to native law and custom by reason of his birth or otherwise;

"native labourer" shall mean any native under contract of service attested under this Proclamation;

"prescribed" shall mean prescribed by this Proclamation or any regulation;

"regulation" shall mean a regulation made and in force under this Proclamation;

C. O.

37171

REC'D

28 OCT 13

SANCTIONED

"recruit" shall mean to procure, engage or supply or to undertake or attempt to procure, engage or supply, natives for the purposes of employment in work of any kind outside Swaziland;

"Resident Commissioner" shall mean the Resident Commissioner for Swaziland or other officer appointed by him to carry out the provisions of this Proclamation;

"runner" shall mean any native employed by a labour agent to canvass or collect natives on his behalf or to act as messenger in connection with the recruiting of labour;

"works" shall have the same meaning as is assigned to the term in any law regulating mines, works and machinery in Swaziland.

3. No person shall exercise the calling of or act as a labour agent or runner in Swaziland unless he be duly authorized by licence or permit under this Proclamation and exercise his calling and act in accordance with the conditions of his licence or permit the provisions of this Proclamation, and the regulations;

Provided that where any licence or permit has been issued or transferred under any law repealed by this Proclamation the same shall be deemed to have been issued under this Proclamation until such licence or permit shall have expired or have been cancelled or suspended under this Proclamation or the regulations.

4. No person shall recruit natives in Swaziland for employment outside Swaziland unless he be the holder of a labour agent's licence issued under this Proclamation and recruit in accordance with the conditions of his licence, the provisions of this Proclamation, and the regulations.

5. No labour agent's licence shall be issued in the name of a company partnership or association of persons.

6. The granting, refusal, endorsement or renewal of any licence shall be in the discretion of the Resident Commissioner.

7. (1) Every licence shall be applied for in the prescribed manner and shall be issued on the prescribed form, and shall contain the prescribed particulars.

(2) Every licence shall expire on the thirty-first day of December in the year in which it is issued. The amount payable for a licence shall be at the rate of fifteen pounds sterling for each year. A licence may be issued for any period not exceeding twelve months and not less than three months. In computing the amount of licence fees payable a portion of a month shall be reckoned as one month.

(3) A labour agent shall not act for more than one person except where he acts for persons carrying on business as partners, without the consent of the Resident Commissioner, and the name and address of each person so sanctioned shall be inserted in the licence.

(4) No licence shall be transferred, and no person shall use or attempt to use, a licence issued to any other person.

(5) Every licence shall be surrendered at the office whereat it was issued within one month after its expiration; and if a licence be declared suspended or cancelled in pursuance of this Proclamation, it shall be surrendered at the office whereat it was issued within fourteen days of its suspension or cancellation.

(6) The licensee shall produce his licence for inspection as prescribed.

(7) If the loss of a licence be proved to the satisfaction of the Resident Commissioner, a duplicate shall be issued in the prescribed manner and on payment of the prescribed fee.

(8) If any licensee ceases to be employed by the person whose name appears on his licence, the licence shall thereupon cease and determine and the fees already paid thereon shall not be recoverable; provided that where the name of more than one person appears on the licence as employing the licensee this provision shall not take effect unless all the persons whose names so appear cease to employ the licensee.



(9) Every person who employs a labour agent shall within seven days after such labour agent has left his service notify the fact to the Resident Commissioner.

(10) A licence shall not grant to the licensee the sole right of recruiting in any district or specified area in Swaziland.

8. Any person who employs or causes to be employed as labour agent any person not in possession of a licence under this Proclamation or who employs or causes to be employed any licensed labour agent who is not registered as being in the bona fide service of such person shall be guilty of an offence.

9. (1) A licensed labour agent may employ runners on obtaining a permit in respect of each runner from an Assistant Commissioner, provided that the Assistant Commissioner shall have full discretion to refuse to issue any permit. No runner shall exercise his calling for more than one labour agent.

(2) From and after the first day of January 1914 there shall be paid a fee of one pound for every permit.

(3) Every permit shall be in such form and contain such particulars as may be prescribed.

(4) Every permit shall expire on the thirty-first day of December of the year in which it was issued; provided that as soon as a labour agent's licence is suspended or cancelled, every permit issued in connection with the licence shall be deemed to be suspended or cancelled; and provided further that where a labour agent's licence is suspended or cancelled any permit issued in connection with such licence may be transferred by and with the consent of the Assistant Commissioner to another labour agent acting on behalf of the same person. Every permit shall be surrendered at the office whereat it was issued within fourteen days after its expiration; or if a permit be suspended or cancelled in pursuance of this Proclamation, within fourteen days of its suspension or cancellation.

(5) Every runner shall produce his permit for inspection as prescribed.

(6) If the loss of a permit be proved to the satisfaction of the Assistant Commissioner, a duplicate shall be issued on payment of the prescribed fee.

(7) Every runner shall wear in a conspicuous position upon his outer garments a badge of such form as may be approved by the Resident Commissioner clearly indicating that he is a runner and the name of his employer. Such badge shall be supplied to the runner by the labour agent.

Any labour agent who shall fail to supply any runner in his employ with such badge, and any runner who shall fail to wear such badge as prescribed, shall be guilty of an offence.

(8) Any runner who shall clothe himself in a manner that is an imitation of the uniform of the Swaziland Police or other police or military force, or who shall clothe himself in such a manner as would reasonably cause any person to mistake such runner for a member of any such force shall be guilty of an offence.

(9) If a runner contravene any provision of this Proclamation or the regulations, his permit may, upon conviction, be cancelled.

(10) If the Assistant Commissioner be satisfied that a permit should be cancelled the same may be cancelled by him on the application of the holder of the licence or of the runner in respect of whom it is issued.

(11) Notwithstanding the repeal of the Labour Agents' Regulations published under High Commissioner's Notice No. 66 of 1910 the provisions of regulation *one* of the said regulations providing for the payment of permit fees and the periods for which permits may be issued shall continue to apply in respect of permits issued between the date of this Proclamation and the 31st December 1913.

10. The holder of a licence under this Proclamation shall be responsible for every act done or representation made in the scope of his employment by any runner

employed by him, and he shall be liable to the prescribed penalties as if he himself had done any such act or made any such representation.

11. (1) If the holder of any licence granted under this Proclamation be convicted of any crime or offence or of any contravention of this Proclamation or any regulation the conviction shall be brought to the notice of the Resident Commissioner by the convicting Assistant Commissioner and thereupon the Resident Commissioner may direct the cancellation of the licence. Pending the Resident Commissioner's decision the licence may be suspended by the convicting Assistant Commissioner.

(2) If the holder of any such licence be reported guilty of such misconduct as, in the opinion of the Resident Commissioner, renders him unfit to hold his licence, the Resident Commissioner shall notify the Assistant Commissioner who shall make full inquiry into the matter. The day appointed for the inquiry and the nature of the misconduct charged shall be notified to such person, within the prescribed time, and he shall be entitled to be heard, and to call witnesses on his behalf. For the purposes of the inquiry the Assistant Commissioner may exercise the same powers, with regard to the summoning of witnesses and taking of evidence, as are conferred upon him by law in criminal cases. After the hearing the Assistant Commissioner may suspend the licence and shall furnish the Resident Commissioner with a full report. Upon receipt of such report the Resident Commissioner may direct cancellation of the licence or its restoration, as he shall think fit.

12. No labour agent or runner shall exercise the rights granted to him under his licence or permit within the area of any township, or upon any private property without the consent in writing of the owner or occupier, or within any area which may be excluded by endorsement on his licence or permit as an area within which such rights cannot be exercised. Such endorsement may be made on the issue of the licence by the Resident Commissioner or the officer appointed thereto by him or in the case of a runner's permit by an Assistant Commissioner;

Provided however that any labour agent may recruit at his place of residence or business within the area of any township or within any area excluded by endorsement on his licence, any natives who have not been solicited by such labour agent or a runner within such township or area and who offer themselves at such place of residence or business.

13. (1) No concession or contract by any native chief binding himself or any person under his authority or control to provide native labour shall be valid.

(2) Any native chief who shall enter into any such concession or contract, or who shall by the use of his authority, control or influence, compel, or induce or seek to compel or induce any native to engage himself to a particular labour agent, employer or other person whether such native chief shall or shall not derive or obtain any profit or reward by so doing shall be guilty of an offence.

(3) Any person inducing or attempting to induce any native chief to enter into any such concession or contract or to use his authority or influence to compel or induce any native to engage himself to a particular labour agent, employer or other person, shall be guilty of an offence.

14. Any persons who shall by wilful misrepresentation of the terms or conditions of employment, induce any native to leave Swaziland or to engage himself for work or labour within or beyond the borders of Swaziland shall be guilty of an offence.

15. Any person who directly or indirectly either himself or by any other person by offer of higher wages or other privileges, or by any other means, causes, induces or persuades or attempts to cause, induce or persuade or assists in causing, inducing or persuading any native by words or other means to leave the service of the person

with whom he is employed in violation of any agreement of service, whether such agreement be in writing or not shall be guilty of an offence.

16. Any person who shall wilfully conceal, employ or retain or aid or abet in concealing, employing or retaining any native who shall have deserted from the service of the person with whom he was employed, or otherwise absconded or absented himself from such service shall be guilty of an offence.

17. (1) Every labour agent shall, before any native recruited by him leaves Swaziland enter into a written contract with such native, and such contract shall be attested by an Assistant Commissioner or by a labour-attesting officer appointed by the Resident Commissioner; provided that

(a) no contract shall be attested unless the attesting officer is satisfied that the terms and conditions thereof are fully understood and accepted by the native concerned and that the native to be attested is apparently over the age of eighteen years; and

(b) no contract shall be attested between any person and any native obtained or received by such person or on his behalf in contravention of this Proclamation or the regulations.

(2) Any person who has entered into a contract with any native for employment on any mine or works in Swaziland may enter into a written contract with such native and have such contract attested in accordance with the provisions of this section.

(3) Every person desiring to have a contract with a native attested under this Proclamation shall produce to the Assistant Commissioner or other attesting officer proof of his authority to enter into the contract.

(4) On every contract attested in accordance with this Proclamation there shall be paid a fee of one shilling to be denoted by revenue stamps affixed to the original contract and cancelled by the attesting officer. Every such contract shall be executed in duplicate and the original whereof shall be handed to the labour agent or employer and the duplicate shall be retained by the attesting officer.

(5) Nothing in this section contained shall prohibit an attesting officer from refusing in his discretion to attest any native who desires to enter into a labour contract under this Proclamation; and any contract, attestation of which is so refused shall be null and void *ab initio* and of no legal force or effect;

Provided that any person who shall feel himself aggrieved at the decision of such attesting officer may appeal to the Resident Commissioner whose decision shall be final.

(6) Every attestation of a contract of employment with a native lawfully effected in Swaziland prior to the taking effect of this Proclamation shall for the purposes of this Proclamation and the regulations be deemed to be an attestation effected under this Proclamation.

18. Any person who by means of a travelling pass, railway ticket or warrant, money or other substitute therefor shall for the purpose of evading this Proclamation or the regulations assist any native whose attestation has been refused by an attesting officer or who is not eligible for attestation under this Proclamation or the regulations to proceed to any place other than the home of such native shall be guilty of an offence.

19. Any native labourer in Swaziland who without lawful cause deserts or absents himself from his place of employment or fails to carry out the terms of his contract shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

20. Any native employed on any mine or works in Swaziland who wilfully and unlawfully does or omits to do anything the doing or omission whereof causes or is likely to cause injury to persons or property, shall be

guilty of an offence and liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two months.

21. Any native who after having in Swaziland entered into a contract of service whether oral or in writing with a labour agent or other person and after having received an advance in respect thereof accepts another advance from another labour agent or other person in consideration of entering upon any other contract of service before he has completed his term of service under the first-mentioned contract shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

22. Any native labourer in Swaziland who

- (a) neglects to perform any work which it was his duty to perform; or
- (b) unfits himself for the proper performance of his work by having become or being intoxicated during working hours; or
- (c) refuses to obey any lawful command of his employer or any person lawfully placed in authority over him; or
- (d) uses any insulting or abusive language to his employer or any person lawfully placed in authority over him; or
- (e) commits any breach of any rules prescribed for good order and discipline or health on any mine or works; shall be guilty of an offence, and liable on conviction to a fine not exceeding forty shillings.

For the purpose of recovering any fine imposed on a native labourer under this section the Court imposing such fine may notify the amount thereof to the native labourer's employer who shall withhold the amount so notified from any wages due or which may become due to such native labourer and pay it over to such officer as may be appointed to receive it.

23. Any native convicted of any offence described in sections *nineteen, twenty or twenty-one* shall be ordered to return to work after the expiration of the sentence imposed on him and to complete the term of his contract if such contract has been attested under this Proclamation and the labour agent or employer so desires.

24. Any native labourer may be charged in the Swaziland Court having jurisdiction at the place where such native labourer was attested or at the place where he resides or at the place where the contract was to be performed with any such offence as is described in section *nineteen* and may be convicted thereof by such Court, notwithstanding that the offence was committed outside Swaziland, and the procedure shall be as if such offence had been committed within the jurisdiction of the Court.

25. In any proceedings under this Proclamation a copy of any duly attested contract certified as a correct copy by an Assistant Commissioner or other officer authorized to attest contracts may be produced and shall thereupon be *prima facie* evidence of the terms of the contract.

26. Any employer who without the written consent of an Assistant Commissioner pays the whole or any part of the wages due to any native labourer employed by him to any person other than such native labourer or who withholds wages from any such native labourer without reasonable and probable cause for believing that the wages were not really due, or who makes any deduction from the wages of any such native labourer save the deduction of an advance made under regulation or a deduction made by order of a court of competent jurisdiction shall be guilty of an offence.

The court may, in addition to any penalty which it may impose, give judgment for the amount of the wages so wrongfully withheld or deducted and for cost of the proceedings, and the judgment shall be of the same force



and effect and shall be executable in the same manner as if it had been given in a civil action duly instituted. No Assistant Commissioner shall authorize the payment to any person of the whole or part of the wages due to any native labourer save with the consent of such native labourer.

27. (1) The High Commissioner may from time to time by notice in the *Gazette* make regulations not inconsistent with this Proclamation, as to all or any of the following matters:—

- (a) The manner and form in which applications shall be made for any licence or permit under this Proclamation the particulars to be furnished upon every such application, the conditions upon which any such licence or permit may be issued, the form of any licence or permit and the particulars to be set forth therein;
  - (b) the issue, in case of loss, of duplicate licences and permits, and the fees to be paid therefor;
  - (c) the registration and inspection of licences and permits and the surrender of suspended or cancelled licences and permits;
  - (d) the execution, attestation, registration and proper enforcement or cancellation of contracts with natives, the transfer, renewal and alteration of any such contract, and the time within which any such contract must be attested;
  - (e) the value and amount of any advance that may be made to a native, the rate of interest chargeable thereon, and the repayment and collection of such advance;
  - (f) the proper housing, feeding and treatment of natives the care of the sick and injured, the entry upon and inspection of premises in which natives employed by any person reside and sanitary precautions affecting such natives;
  - (g) the fixing of fees to cover the cost of services in connection with any matters in this section mentioned, and the collection and enforcement of such fees;
  - (h) the keeping by employers and labour agents of such books and accounts and the rendering of such returns concerning native labour, as may be required by the Resident Commissioner from time to time the inspection of any such books and accounts by the Resident Commissioner or any officer appointed by him thereto;
  - (i) the manner and form of the badge to be worn by native runners and the manner of wearing such badge;
  - (k) the service of notices or other documents;
- and generally for the better carrying out of the objects and purposes of this Proclamation.

(2) The regulations may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of fifty pounds, or, in default of payment, imprisonment with or without hard labour for a period not exceeding six months, and daily penalties may be imposed for a continuing contravention or non-compliance or increased penalties for a second or subsequent contravention or non-compliance.

28. Any person who by any act or omission contravenes or fails to comply with any provision of this Proclamation for the contravention whereof or failure to comply where-with no penalty is specially provided, shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months; and for a continuing offence an additional daily fine not exceeding ten pounds, or in default of payment, a proportionate period of additional imprisonment with or without hard labour may be imposed; Provided that the duration of such proportionate additional imprisonment shall in no case exceed six months.

29. In the case of a Company, or of an association other than a partnership, any proceedings for a contravention or failure to comply with the provisions of this Proclamation or the regulations may be taken against the manager, or if his name be not known or he be not in Swaziland against any director of the company or association in Swaziland, or against the person responsible for the control, management or direction of the company or association in Swaziland, and in the case of a partnership the proceedings may be taken against the manager, or if his name be not known or he be not in Swaziland against any member of the partnership in Swaziland; or against the person responsible for the control, management or direction of the partnership in Swaziland.

30. This Proclamation may be cited for all purposes as the Native Labour Regulation (Swaziland) Proclamation 1913, and shall commence and come into operation from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at *Mutema* this  
*nineteenth* day of *September* One thousand Nine  
Thirteen.



*[Signature]*  
High Commissioner.

Command of His Excellency  
the High Commissioner.

*C. L. v. S. Dutt*

*[Signature]* Imperial Secretary.

**PROCLAMATION**

By His Excellency The High Commissioner.

WHEREAS by article *two* of the Customs Agreement (herein after referred to as the said Agreement) entered into in 1910 between the Union of South Africa (herein after referred to as the Union) and the Territories of Basutoland Swaziland and the Bechuanaland Protectorate (herein after referred to as the Territories) as amended by Protocol of 15th June 1911 and as further amended by Protocol of 1st September 1913 it is provided that the duties of Customs and Excise on spirits and beer in the Territories shall be the same as those for the time being in force in the Union;

And whereas it is desirable in terms of the said Agreement that Basutoland shall maintain a Customs tariff similar to that which exists in the Union;

And whereas by the Excise and Customs Tariff Amendment Act 1913 of the Union provision is made for the increase of the rate of certain duties of Customs and Excise hitherto payable under the laws in force in the several Provinces of the Union;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. So much of the High Commissioner's Proclamations Nos. 8 of 1906, 27 of 1906 and 44 of 1908 and of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

2. Subject to the provisions of this Proclamation there shall be levied and paid to the proper officer in respect of

- (a) spirits
- (b) beer
- (c) extracts or essences of vinegar, acetic and pyroligneous acids

manufactured in the Union on importation into Basutoland in substitution for any duty imposed on such articles by any previous law Customs duties in accordance with the tariff set out in the First Schedule to this Proclamation subject to the rebates of duty specified in Part II of that Schedule and to the rebates in the case of beer, which may be permitted by the regulations made under section *seven* of this Proclamation.

3. In the interpretation of this Proclamation

- (a) "wine brandy (cognac type)" means the distillate resulting solely from the distillation of wine the volatile constituents of which distillate (except water) are derived entirely from the wine, provided the distillate is not distilled at higher than twenty-two degrees over proof and such volatile constituents include not less than 125 parts of higher alcohols calculated as amyl alcohol and 300 parts of total secondary constituents per 100,000 parts of alcohol;
- (b) "dop brandy" means the unrectified distillate resulting from the distillation solely of grape husks and water; the volatile constituents of which distillate (except pure water used for reducing the strength thereof) are derived

entirely from the above-named materials; provided that the alcohol strength of such dop brandy be not lower than 25 degrees under proof;

- (c) "proper officer" means any officer appointed by the Resident Commissioner as the proper officer for the purposes of this Proclamation.

4. The Customs duties leviable and payable under any law in force in Basutoland in respect of any article specified in the Second Schedule to this Proclamation which is not subject to duty under section *two* of this Proclamation shall be levied and paid at the rate specified in the second column of the Schedule instead of at the rates specified in any such law and shall further be subject to the rebates shown in the third column of that Schedule, and in interpreting that Schedule reference to classes and items, duties and rebates, shall be construed as references to classes and items, duties and rebates, with corresponding numbers in the Schedule to any such law as aforesaid.

*Acknowledged*

5. The tariff of duties imposed by this Proclamation shall take effect as follows:

- (a) The tariff of Customs duty in respect of spirits, extracts or essences of vinegar and acetic and pyroligneous acids manufactured in the Union shall take effect as from the 19th day of June 1913.
- (b) The tariff of Customs duty in respect of beer manufactured in the Province of the Cape of Good Hope shall take effect as from the 21st day of May 1913.
- (c) The tariff of Customs duty in respect of beer manufactured in the other three Provinces of the Union shall take effect on the 1st day of October 1913.
- (d) The tariff of Custom duties set out in the Second Schedule to this Proclamation shall take effect as from the 21st day of May 1913.

6. Notwithstanding anything contained in this Proclamation

- (a) spirits manufactured in the Union in stock or in transit in the Union on the 30th day of June 1913 shall, if the proper officer is satisfied that the same are certified to be or are returned as wine brandy under the Excise Duties Amendment Act 1909 of the Cape of Good Hope, pay on importation into Basutoland Customs duty at the rate of 5s. per imperial proof gallon;
- (b) spirits manufactured in the Union distilled from wine and classed as wine brandy under the provisions of the Excise Duties Amendment Act 1909 of the Cape of Good Hope, before the 1st day of January 1914, shall only be liable on importation into Basutoland to the Customs duty of 5s. per imperial proof gallon.

7. The High Commissioner may from time to time by notice in the *Gazette* make alter and repeal regulations not inconsistent with this Proclamation as to all or any of the following matters, namely,—

- (a) the conditions under which the rebates of duty specified in the First Schedule to this Proclamation shall be allowed;
- (b) the conditions under which a rebate of the whole or any part of the Customs duties shall be allowed in respect of—
  - (i) beer exported from Basutoland;
  - (ii) beer for the use of His Majesty's regular naval and military forces in Basutoland;
  - (iii) beer brewed wholly or in part from materials produced or grown in the Union.

The regulations may provide penalties for a contravention thereof or failure to comply therewith, not exceeding one hundred pounds, which may be recovered at the suit of the proper officer by action in the court of the Resident Commissioner or of an Assistant Commissioner. The article in respect of which the contravention or default has been committed may in the discretion of the proper officer be forfeited.

8. This Proclamation may be cited for all purposes as the Basutoland Customs Duties Proclamation 1913.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-seventh day of September One thousand Nine hundred and Thirteen.

GLADSTONE.

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON.

for Imperial Secretary.



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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

SANCTIONS

WHEREAS by Article II of the Customs Agreement (hereinafter referred to as the said Agreement) entered into in 1910 between the Union of South Africa (hereinafter referred to as the Union) and the Territories of Basutoland, Swaziland and the Bechuanaland Protectorate (hereinafter referred to as the Territories) as amended by Protocol of June 15th 1911 and as further amended by Protocol of 1st September 1913 it is provided that the duties of customs and excise on spirits and beer in the Territories shall be the same as those for the time being in force in the Union;

AND WHEREAS it is desirable in terms of the said Agreement that the Bechuanaland Protectorate shall maintain a Customs Tariff similar to that which exists in the Union;

AND WHEREAS by the Excise and Customs Tariff Amendment Act 1913 of the Union provision is made for the increase of the rate of certain duties of customs and excise hitherto payable under the laws in force in the several provinces of the Union;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. So much of the High Commissioner's Proclamations Nos. 9 of 1906, 28 of 1906 and 45 of 1906 and of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

2. Subject to the provisions of this Proclamation there shall be levied and paid to the proper officer in respect of

- (a) spirits
- (b) beer
- (c) extracts or essences of vinegar, acetic and pyroligneous acids

manufactured in the Union on importation into the Bechuanaland Protectorate in substitution for any duty imposed on such articles by any previous law customs duties in accordance with the tariff set out in the first Schedule to this Proclamation subject to the rebates of duty specified in Part II of that Schedule and to the rebates in the case of beer, which may be permitted by the regulations made under section seven of this Proclamation.

3. In the interpretation of this Proclamation

(a) "wine brandy (cognac type)" means the distillate resulting solely from the distillation of wine the volatile constituents of which distillate (except water) are derived entirely from the wine, provided the distillate is not distilled at higher than twenty two degrees over proof and such volatile constituents include not less than 125 parts of higher alcohols calculated as amyl alcohol and 300 parts of total secondary constituents per 100,000 parts of alcohol.

(b) "dop brandy" means the unrectified distillate resulting from the distillation solely of grape husks and water; the volatile constituents of which distillate (except pure water used for reducing the strength thereof) are derived entirely from the above named materials; provided that the alcoholic strength of such dop brandy be not lower than 25 degrees under proof.

(c) "Proper officer" means any officer appointed by the Resident Commissioner as the proper officer for the purpose of this Proclamation.

4. The customs duties leviable and payable under any law in force in the Bechuanaland Protectorate in respect of any article specified in the second Schedule to this Proclamation which is not subject to duty under section two of this Proclamation shall be levied and paid at the rate specified in the second column of the Schedule instead of at the rates specified in any such law and shall further be subject to the rebates shown in the third column of that Schedule, and in interpreting that Schedule references to classes and items, duties and rebates, shall be construed as references to classes and items, duties and rebates, with corresponding numbers in the Schedule to any such law as aforesaid.

5. The Tariff of duties imposed by this Proclamation shall take effect as follows:-

- (a) The tariff of Customs duty in respect of spirits, extracts or essences of vinegar and acetic and pyroaligenous acids manufactured in the Union shall take effect as from the 19th day of June 1913.
- (b) The tariff of Customs duty in respect of beer manufactured in the Province of the Cape of Good

ope shall take effect as from the 21st day of May 1913.

(c) The tariff of Customs duty in respect of beer manufactured in the other three provinces of the Union shall take effect on the first day of October 1913.

(d) The tariff of Customs duty set out in the second Schedule to this Proclamation shall take effect as from the 21st day of May 1913.

6. Notwithstanding anything contained in this Proclamation:

- (a) spirits manufactured in the Union in stock or in transit in the Union on the 30th day of June 1913 shall, if the proper officer is satisfied that the same are certified to be or are returned as wine brandy under the Excise Duties Amendment Act 1909 of the Cape of Good Hope pay on importation into the Bechuanaland Protectorate customs duty at the rate of 5/- per imperial proof gallon;
- (b) spirits manufactured in the Union distilled from wine and classed as wine brandy under the provisions of the Excise Duties Amendment Act 1909 of the Cape of Good Hope, before the first day of January 1914, shall only be liable on importation into the Bechuanaland Protectorate to the customs duty of 5/- per imperial proof gallon.

7. The High Commissioner may from time to time by notice in the Gazette make alter and repeal regulations not inconsistent with this Proclamation as to all or any of the following matters, namely, -



- (a) the conditions under which the rebates of duty specified in the first Schedule to this Proclamation shall be allowed;
- (b) the conditions under which a rebate of the whole or any part of the customs duties shall be allowed in respect of -
  - (i) beer exported from the Bechuanaland Protectorate;
  - (ii) beer for the use of His Majesty's regular naval and military forces in the Bechuanaland Protectorate;
  - (iii) beer brewed wholly or in part from materials produced or grown in the Union.

The regulations may provide penalties for a contravention thereof or a failure to comply therewith, not exceeding one hundred pounds, which may be recovered at the suit of the proper officer by action in the Court of an Assistant Commissioner. The article in respect of which the contravention or default has been committed may in the discretion of the proper officer be forfeited.

8. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Customs Duties Proclamation 1913.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Putrajaya*  
this *twenty-seventh* of *September* One thousand Nine  
hundred and Thirteen.



*[Signature]*

High Commissioner

By Command of His Excellency  
the High Commissioner.

*[Signature]*

for Imperial Secretary

PART 1.

Rates of Customs Duty on certain articles  
manufactured in the Union

Description of Article liable to duty.	Rate of Duty.
Fine Brandy (cognac type), per Imperial proof gallon .....	2. 3. 6 0. 9. 0 (See note)
Spirits distilled from the produce of the vine other than wine brandy (cognac type) and other than dop brandy, per Imperial proof gallon.....	0.15. 0 (See note)
Dop brandy and spirits distilled from materials other than the produce of the vine, per Imperial proof gallon.....	0.15. 0 (See note)
(Note.- All spirits shall be subject to rates as specified in Part II of this Schedule.	
Beer brewed from worts of the specific gravity of less than one thousand and forty degrees, per 36 Imperial gallon.....	0. 6. 0
Beer brewed from worts of the specific gravity of one thousand and forty degrees and over, per 36 Imperial gallons of worts of a specific gravity of one thousand and fifty-seven degrees, with a proportionate increase or decrease for any difference in gravity.....	0.15. 0
(Note.- Lager beer produced from worts of the specific gravity of less than one thousand and forty degrees shall be charged at the higher rate of duty	
Acetic and pyroligneous Acids, Extracts and Essences of Vinegar:	
If of a strength not exceeding the strength of proof, per Imperial gallon or fraction of an Imperial gallon.....	0. 1. 0
And in addition for each degree of strength in excess of the strength of proof per degree....	0. 0. 4
(Note.- Proof shall be held to be equal to six per cent. of absolute acid.	

# PART II

## Rebates of Customs Duties on Articles Included in Part I

Description of spirits on which rebate allowed.	Conditions under which rebate allowed.	Amount of rebate		
		one cognac (cognac type)	spirits the produce of the vine other than wine brandy (cognac type) and other than cognac brandy.	of brandy and spirits distilled from materials other than the produce of the vine
Methylated spirits.	Spirits of a strength of fifty per cent over proof and upwards methylated in the pre- scribed manner.			
	Per proof gallon.....			The whole duty.
Wine spirits used in any art or manu- facture.	Wine spirits used in any art or manufacture and rendered unsuitable for proof gallon	A. S. d	A. S. d	A. S. d
		0. 3. 0	0. 8. 0	0. 13. 0
Spirits used in fortifica- tion of pure wine.	Spirits used in the fortification or pre- servation of pure wine provided that the strength of such wine be not raised to a higher strength than forty and one half per centum of proof spirit..			The whole duty
Spirits ex- ported	Spirits removed for consumption outside the limits of the German- land Protectorate.....			The whole duty
Spirits lost	Spirits lost through evaporation, leakage, or other unavoidable cause, provided to the satisfaction of the proper officer to have been actually lost and not passed into consump- tion .....			The whole duty



ANNEX 1 - SPECIAL DUTIES

Duty.

levied upon  
goods, the  
growth, produce  
or manufacture  
of the United  
Kingdom and  
reciprocal  
countries.

Item 1.- The following shall be inserted:-

Item 2. Acetic and pyroligneous acids and  
extracts, essences of vinegar, of any strength  
not exceeding the strength of proof -

(a) in bottles or other vessels of a capacity  
not more than one imperial quart, per

imperial gallon ..... 1. 1. 7 0. 0. 1

(b) in larger vessels, per imperial gallon.... 0. 1. 1 0. 0. 1

and in addition, in either case, for each  
degree of strength in excess of the strength  
of proof, per degree..... 0. 0. 3 0. 0. 1

Note.- Proof will be held to be equal to six  
per cent. of absolute acid and shall be de-  
termined in the manner prescribed by the  
Customs authorities.

Item 36 shall be deleted and the following  
shall be substituted:-

Item 36. Spirits -

(a) Brandy, per imperial gallon ..... 1. 2. 6 Nil

and in addition ten per cent. ad valorem  
(b) Liqueurs, cordons and mixed spirits  
exceeding three per cent. of proof

spirit, per imperial gallon..... 1. 2. 0 Nil.

or 25 per cent. ad valorem whichever shall  
be the greater.

Such spirits if and when over proof shall be  
specially entered and strength overproof

declared, and the duty on the mixture shall  
then be leviable at 1.1.0d. per imperial

proof gallon or 25 per cent. ad valorem  
whichever duty is the greater.

(c) Other sorts exceeding three per cent.  
of proof spirit, per imperial

proof gallon..... 1. 1. 0 Nil

No allowance for underproof in excess of  
15 per cent.

(d) Medicinal and toilet preparations and  
essences (liquids) and drops and tinc-  
tures; containing over three per cent.

of proof spirit, per imperial gallon..... 1. 2. 0 Nil

or 25 per cent. ad valorem, whichever  
duty is the greater.

Such spirits if and when overproof shall be  
specially entered and strength overproof de-  
clared, and the duty on the mixture shall then

be leviable at 1.1s.0d. per imperial proof  
gallon or 25 per cent. ad valorem, whichever

duty is the greater.  
Note.- No allowance shall be made for underproof  
in excess of 15 per cent."

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

SANCTIONS

WHEREAS by Article 11 of the Customs Agreement (hereinafter referred to as the said Agreement) entered into in 1910 between the Union of South Africa (hereinafter referred to as the Union) and the Territories of Bechuanaland Swaziland and the Bechuanaland Protectorate (hereinafter referred to as the Territories) as amended by Protocol of June 15th 1911 and as further amended by Protocol of 1st September 1913 it is provided that the duties of Customs and Excise on spirits and beer in the Territories shall be the same as those for the time being in force in the Union;

AND WHEREAS it is desirable in terms of the said Agreement that Swaziland shall maintain a Customs Tariff similar to that which exists in the Union;

AND WHEREAS by the Excise and Customs Tariff Amendment Act 1913 of the Union provision is made for the increase of the rate of certain duties of Customs and Excise hitherto payable under the laws in force in the several provinces of the Union;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by Swaziland Order in Council 1906 and the

Swaziland Order in Council 1909 I do hereby declare  
proclaim and make known as follows:-

1. So much of the Customs Amendment Ordinance  
1906 of the Transvaal as is in force in Swaziland by  
virtue of the Swaziland Customs Tariff Proclamation  
1906 and of the Swaziland Customs Amendment Proclamation  
1908 and of any other law as may be repugnant to or in-  
consistent with the provisions of this Proclamation  
shall be and is hereby repealed.

2. Subject to the provisions of this Proclamation  
there shall be levied and paid to the proper officer  
of Customs in respect of

- (a) spirits
- (b) beer
- (c) extracts or essences of vinegar, acetic  
and pyroligneous acids

manufactured in the Union on importation into Swaziland  
in substitution for any duty imposed on such articles by  
any previous law customs duties in accordance with the  
Tariff set out in the first Schedule to this Proclamation  
subject to the rebates of duty specified in Part II of  
that Schedule and to the rebates in the case of beer,  
which may be permitted by the regulations made under  
section seven of this Proclamation.

3. In the interpretation of this Proclamation

(a) "wine brandy (cognac type)" means the distillate  
resulting solely from the distillation of wine the  
volatile constituents of which distillate (except water)  
are derived entirely from the wine, provided the distillate

is not distilled at higher than twenty two degrees over proof and such volatile constituents include not less than 125 parts of higher alcohols calculated as amyl alcohol and 300 parts of total secondary constituents per 100,000 parts of alcohol.

(b) "dop brandy" means the unrectified distillate resulting from the distillation solely of grape mashes and water; the volatile constituents of which distillate (except pure water used for reducing the strength thereof) are derived entirely from the above named materials; provided that the alcoholic strength of such dop brandy be not lower than 35 degrees under proof.

4. The customs duties leviable and payable under any law in force in Swaziland in respect of any article specified in the second schedule to this Proclamation which is not subject to duty under section two of this Proclamation shall be levied and paid at the rate specified in the second column of the schedule instead of at the rates specified in any of such laws and shall further be subject to the rebates shown in the third column of that schedule, and in interpreting that schedule reference to classes and items, duties and rebates, shall be construed as references to classes and items, duties and rebates, with corresponding numbers in the schedule to any such law as aforesaid.

5. The tariff of duties imposed by this Proclamation shall take effect as follows:-

(a) The tariff of customs duty in respect of spirits, extracts or essences of vinegar and acetic and pyroligneous acids manufactured in the Union shall take effect as from the 19th day of June 1913.



- (b) The tariff of customs duty in respect of beer manufactured in the Province of the Cape of Good Hope shall take effect as from the 31st day of May 1913.
- (c) The tariff of customs duty in respect of beer manufactured in the other three provinces of the Union shall take effect on the first day of October 1913.
- (d) The tariff of customs duties set out in the second schedule to this Proclamation shall take effect as from the 31st day of May 1913.

6. Notwithstanding anything contained in this Proclamation

- (a) spirits manufactured in the Union in stock or in transit in the Union on the 30th day of June 1913 shall, if the proper officer of customs is satisfied that the same are certified to be or are returned as wine brandy under the Excise Duties Amendment Act 1909 of the Cape of Good Hope pay on importation into Swaziland customs duty at the rate of 5/- per imperial proof gallon;
- (b) spirits manufactured in the Union distilled from wine and classed as wine brandy under the provisions of the Excise Duties Amendment Act 1909 of the Cape of Good Hope, before the first day of January 1914, shall only be liable on importation into Swaziland to the customs duty of 5/- per imperial proof gallon.

7. The High Commissioner may from time to time by notice in the Gazette make alter and repeal regulations not inconsistent with this Proclamation as to all or any of the following matters, namely, -

- (a) the conditions under which the rebates of duty specified in the first schedule to this Proclamation shall be allowed;

(b) the conditions under which a rebate of the whole or any part of the customs duties shall be allowed in respect of -

- (i) beer exported from Swaziland;
- (ii) beer for the use of His Majesty's regular naval and military forces in Swaziland;
- (iii) beer brewed wholly or in part from materials produced or grown in the Union.

The regulations may provide penalties for a contravention thereof or a failure to comply therewith, not exceeding one hundred pounds, which may be recovered at the suit of the proper officer of customs by action in the Special Court of Swaziland or in the Court of an Assistant Commissioner. The article in respect of which the contravention or default has been committed may in the discretion of the proper officer of customs be forfeited.

8. This Proclamation may be cited for all purposes as the Swaziland Customs Duties Proclamation 1913.

G O D   S A V E   T H E   K I N G !

- Given -

Given under my Hand and Seal at *Pretoria*  
this *Twenty seventh* day of *September* One thousand nine  
hundred and Thirteen.



*[Signature]*  
High Commissioner

By Command of His Excellency  
the High Commissioner

*[Signature]*  
for Imperial Secretary.

FIRST SCHEDULE

PART I.

Notes of Customs Duty on certain articles  
manufactured in the Union

Description of Article liable to duty.	Rate of Duty
Wine brandy (cognac type), per Imperial proof gallon.....	1 s. d 0. 9. 0 (See Note )
Spirits distilled from the produce of the vine other than wine brandy (cognac type) and other than dop brandy, per Imperial proof gallon.....	0.10. 0 (See Note)
Dop brandy and spirits distilled from materials other than the produce of the vine, per Im- perial proof gallon.....	0.15. 0 (See Note )
Note.- All spirits shall be subject to rebates as specified in Part II of this Schedule.	
Beer brewed from worts of the specific gravity of less than one thousand and forty degrees per 36 Imperial gallons.....	0. 6. 0
Beer brewed from worts of the specific gravity of one thousand and forty degrees and over, per 36 Imperial gallons of worts of a specific gravity of one thousand and fifty seven degrees, with a proportionate increase or decrease for any difference in gravity.....	0.12. 0
Note.- Lager beer produced from worts of the specific gravity of less than one thousand and forty degrees shall be charged at the higher rate of duty.	
Acetic and Pyroligneous Acids, Extracts and Essences of Vinegar: If of a strength not exceeding the strength of proof, per Imperial gallon or fraction of an Imperial gallon ..... And in addition for each degree of strength in excess of the strength of proof, per degree.....	0. 1. 0 0. 0. 4
Note.- Proof shall be held to be equal to six per cent. of absolute acid.	



# PART II.

## Rebates of Customs Duties on Articles included in Part I

Description of spirits on which rebate allowed.	Conditions under which rebate allowed.	Amount of rebate		
		the brandy (cognac type)	spirits the produce of the vine other than wine brandy (cognac type) and other than top brandy.	top brandy and spirits distilled from materials other than the produce of the vine.
Methylated spirits.	Spirits of a strength of fifty per cent. over proof and up- wards methylated in the prescribed manner.			
Plain spirits used in any art or manufacture.	per proof gallon.... Plain spirits used in any art or manu- facture and rendered unsaleable.		The whole duty	
Spirits used in fortifica- tion of pure wine.	per proof gallon..... Spirits used in the fortification or preservation of pure wine, provided that the strength of such wine be not raised to a higher strength than forty and one half per centum of proof spirit..	0. 3. 0	0. 8. 0	0.13. 0
Spirits ex- ported	Spirits removed for con- sumption outside the limits of Swaziland.		The whole duty.	
Spirits lost	Spirits lost through evaporation, leakage or other unavoidable cause, proved to the satisfaction of the Proper Officer of Customs to have been actually lost and not passed into consump- tion.....		The whole duty.	

SECOND SCHEDULE

CUSTOMS DUTIES.

CLASS I - SPECIAL RATES

Duty. relate upon goods, the growth, produce or manufacture of the United Kingdom and reciprocating colonies.

Item 1.- The following shall be inserted:- M. S. d M. S. d

"Item 1. Acetic and pyroligneous acids and extracts, essences of vinegar, of any strength not exceeding the strength of proof -

(a) in bottles or other vessels of a capacity of not more than one Imperial quart, per Imperial gallon ..... 0. 1. 7 0. 0. 1

(b) in larger vessels, per Imperial gallon. 0. 1. 1 0. 0. 1

And in addition, in either case, for each degree of strength in excess of the strength of proof per degree ..... 0. 0. 5 0. 0. 1

Note.- Proof will be held to be equal to six per cent. of absolute acid and shall be determined in the manner prescribed by the customs authorities".

Item 36 shall be deleted and the following shall be substituted:-

"Item 36, spirits -

(a) Perfumed, per Imperial gallon ..... 1. 2. 6 Nil

and in addition ten per cent. ad valorem

(b) Liqueurs, cordials and mixed spirits exceeding three per cent. of proof spirit, per Imperial gallon ..... 1. 2. 0 Nil

or 25 per cent. ad valorem, whichever shall be the greater.

Such spirits if and when over proof shall be specially entered and strength overproof declared, and the duty on the mixture shall then be leviable at 2l.1s.0d. per Imperial proof gallon or 25 per cent. ad valorem, whichever duty is the greater.

(c) Other sorts exceeding three per cent. of proof spirit, per Imperial proof gallon. 1. 1. 0 Nil

No allowance for underproof in excess of 15 per cent.

(d) Medicinal and toilet preparations and essences (liquid) and syrup and tinctures; containing over three per cent. of proof spirit, per Imperial gallon.... 1. 2. 0 Nil

or 25 per cent. ad valorem, whichever duty is the greater.

Such spirits if and when overproof shall be specially entered and strength overproof declared, and the duty on the mixture shall then be leviable at 2l.1s.0d. per Imperial proof gallon or 25 per cent. ad valorem, whichever duty is the greater.

Note.- No allowance shall be made for underproof in excess of 15 per cent."

C.O  
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MAR 11 1913

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

SANCTIONED

WHEREAS it is desirable to make further provision out of the public revenue and other funds of Swaziland to meet certain additional expenditure incurred during the financial year which ended on the thirty-first day of March 1913:

NOW KNOW YE THAT under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909, I do hereby declare proclaim and make known as follows:-

1. The public revenue and other funds of Swaziland are hereby charged with a further sum of £5,494. 0. 5 (five thousand four hundred and ninety-four pounds and fivepence) to meet expenditure incurred during the financial year which ended on the thirty-first day of March 1913 in excess of the amounts appropriated for the service of that year according to the particulars set forth in the Schedule to this Proclamation.

2. This Proclamation may be cited as the Swaziland Further Appropriation (1912-1913) Proclamation 1913

and shall have force and take effect from the date of  
its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Singapore*  
this *seventh* day of *October* One thousand Nine  
hundred and Thirteen.



High Commissioner.

By Command of His Excellency  
the High Commissioner.

Imperial Secretary.



# SCHEDULE.

## Ordinary Expenditure

No.	Head of Service	Amount	Amount	Excess		
		provided	expended			
		£	£ s d			
1.	Establishments	10,850	11,033.10. 2	183.	10.	2
3.	Transport	270	1,019. 7. 4	249.	7.	4
4.	Administration of Justice	2,269	2,811. 1. 1	544.	1.	1
5.	Public Works	1,300	4,284. 0. 0	934.	0.	0
10.	Allowances to Native Chiefs	1,050	1,066.12. 4	16.	12.	4
14.	Miscellaneous	1,150	1,708.15. 6	558.	15.	6
		19,432	21,933. 1. 5	2501.	1.	5

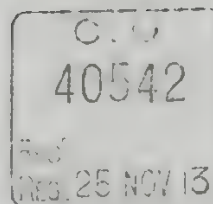
## Extraordinary Expenditure

17.	Concessions and Partition Expenses	3,275	3,492.19. 9	217.	19.	9
18.	Eradication of Malt Coast Fever	1,805	3,405.15. 3	1620.	15.	3
19.	Land Expropriation in connection with settlement		255.11. 9	255.	11.	9
20.	Bremerdorp Township		75. 6. 2	75.	6.	2
21.	Refund of overpayments on account of land sold		193. 1. 1	193.	1.	1
		434,572	439,096. 0. 5	2144.	0.	5

o. of 1913

**SANCTIONED**

*With observations  
(in connection with the  
writing out of the  
proclamation)  
involved in the  
40542-13.*



**PROCLAMATION**

BY HIS MAJESTY THE KING

WHEREAS by paragraph (a) of section six of the Swaziland Concessions Partition Proclamation 1907, as amended, it is provided, inter alia, that no native from time to time actually resident on land the subject of a land concession shall be compelled to remove therefrom for a period of five years commencing on the first day of July 1909;

AND WHEREAS the said period of five years will expire on the thirtieth day of June 1914, and it is desirable to provide for the removal of any such native resident on land the subject of a land concession if he shall not have entered into an agreement with the concessionaire under paragraph (b) of section six of the said proclamation;

NOW KNOW ALL MEN under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this proclamation unless inconsistent with the context "Agreement" shall mean a written Agreement between an owner and a native confirmed by

- -

the Resident Commissioner under Section six (b) of the Swaziland Concessions Partition Proclamation 1907.

"Assistant Commissioner" shall mean the Assistant Commissioner or Deputy Assistant Commissioner of the District in which the land occupied by a Native Occupant is situate or any officer acting in either of such capacities.

"Land" shall mean any land in Swaziland other than Native Area.

"Land Concession" and "Mineral Concession" shall have the same meanings as are assigned to those terms respectively by the Swaziland Concessions Partition Proclamation 1907.

"Native Occupant" shall mean any Native of Swaziland who having been resident on any land on the thirtieth day of June 1914, shall thereafter continue to occupy such land without having made an agreement with the owner as to the terms of such occupation in accordance with paragraph (c) of Section six of the Swaziland Concessions Partition Proclamation 1907, and shall include the family and immediate following if any of such Native.

"Native Area" shall mean land, set apart for the sole and exclusive use and occupation of Natives of Swaziland under the provisions of the Swaziland Concessions Partition Proclamation 1907, or any amendment thereof.

"Owner" shall mean in relation to any land the registered holder of any land concessions in respect of such land or the registered owner of such land or of any lease thereof registered against title and shall include any person occupying Crown land under an Agreement of Sale entered

into under the Swaziland Crown Lands Disposal Proclamation 1911 or any amendment thereof. It shall also include the legal representative of any such person who has died become insolvent is a minor is of unsound mind or is otherwise under disability.

"Representative" shall mean in relation to a Native Occupant, in the absence of a legal representative, any other Native or Swaziland deputed by him to be his representative for any purpose of this Proclamation or any Native who in the opinion of the Assistant Commissioner may reasonably be considered to be representative of the Native Occupant.

2. An owner shall not be entitled to institute legal proceedings for the ejectment from his land of a Native Occupant until he shall have given not less than two months' notice in writing to be handed to or addressed by registered letter to the Assistant Commissioner. On receipt of such notice the Assistant Commissioner shall cause the contents thereof to be communicated to the Native Occupant or to his representative. The Assistant Commissioner may in his discretion order the Native Occupant or his representative to appear before him or any officer whom he may designate at such time and at such place within the district as may in his opinion be suitable, for the purpose of receiving an explanation of the contents of the notice and any Native who after having received such order shall without reasonable cause fail to appear in person or by representative at the place and on the date fixed shall be guilty of an offence and shall be



liable on conviction to a fine not exceeding five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

3. The owner may on the expiration of two months from the date of the receipt by the Assistant Commissioner of the notice prescribed in the foregoing section and at any time within six months thereafter apply to the Court of Assistant Commissioner for a writ of ejectment and on proof to the satisfaction of the Court that the Native Occupant or his representative has been notified of the contents of the prescribed notice or has failed to appear when called upon by the Assistant Commissioner as provided in the preceding section such writ of ejectment shall be granted subject to the provisions of the next succeeding section, unless proof shall be adduced that an Agreement has been entered into. Except in defended cases under this section no costs shall be awarded against the Native Occupant and he shall not in any case be liable for damages for trespass or otherwise in respect of his occupation of the land except in so far as concerns actual damage to stock, crops, cultivated lands, buildings or other improvements.

4. In granting a writ of ejectment the Court of Assistant Commissioner shall fix a period within which the writ shall be executable. Such period shall be so fixed as to afford reasonable time to the Native Occupant to reap growing crops, if any, planted by him on the land before the date of his

being notified of the notice prescribed in Section two hereof.

5. In removing from any site or on being ejected therefrom the native occupant shall be entitled to remove his stock and all his movable property. For the purposes of this Section native huts constructed of wattles reeds and grass and cattle kraals constructed of rough timber shall be deemed to be movable property. If such native huts or cattle kraals shall not be removed within a period of three months after the date of the removal of the native occupant they shall become the property of the owner.

6. In the absence of an agreement to the contrary an owner shall have no claim for rent or other consideration in respect of the occupation subsequent to the thirtieth day of June 1914 of his land by a native who having been resident on such land on the thirtieth day of June 1914 shall thereafter continue to occupy such land.

7. The Resident Commissioner and every Assistant Commissioner is hereby empowered to assign suitable land within any Native Area to any native of Swaziland who may be ejected from private land under the provisions of this Proclamation or who for any reason may desire to remove from private land to Native Area. Any native to whom land shall be so assigned by the Resident Commissioner or an Assistant Commissioner shall be entitled to utilise the same according to native custom, provided that after he shall have reaped his first crops, or after six months if he shall have planted no crops, his further occupation of the land or

removal therefrom shall be governed by native law and custom in so far as such native law and custom are recognised by the ordinary laws in force in the Territory. Nothing herein contained shall be deemed to entitle the Paramount Chief or any other Chief to remove a native from any portion of a native area without assigning to him suitable land elsewhere in native area.

8. Any native Chief, headman or other native who shall interfere with the occupation by any native of land in native area assigned to him under the preceding section except in accordance with the provisions of that section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

9. Nothing in this Proclamation contained shall be deemed to affect the lawful rights of the holder of any mineral concession.

10. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D   H A V E   T H E   W I D I

Given under my Hand and Seal at *Singapore*  
this *seventh* day of *October* One thousand  
Nine hundred and Thirteen.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
for Imperial Secretary.



Resolved

Copy for  
Authenticated  
Set

ACKNOWLEDGED

with a note (University)  
Proclamation for decision  
of Resident Commissioners  
prior to 1900  
Proclamation in 1900  
H. 151 '3

No. 25 of 1913.]

### PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 1B 1889, dated the 1st day of November 1889, herein after referred to as "the said Proclamation."

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section one of the said Proclamation shall be and is hereby amended by the addition thereto of the following words, which shall form sub-section (2) thereof:—

"In any case where the Resident Commissioner shall deem it desirable he shall be at liberty to call to his assistance or to that of the Combined Court any number of assessors, who shall be chosen by him from the Chief's Councillors or Headmen, to aid him or the said Court in the trial of any case with a view to the advantages to be derived from their observations. The assessors shall give their opinions and such opinions shall be considered by the Resident Commissioner or the said Court and may be recorded in writing and form part of the proceedings; provided that in every case the judgment of the Court shall be the judgment pronounced or approved of by the Resident Commissioner."

2. Section two of the said Proclamation shall be and is hereby repealed and the following substituted in its stead:—

"In the same manner and subject to the same conditions as are mentioned in sub-section (2) of the preceding section any Assistant Commissioner or any officer acting as Assistant Commissioner shall be at liberty to call to his assistance such number of assessors, not exceeding five, as he may consider expedient."

3. This Proclamation shall be read as one with the said Proclamation and shall take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Barberton this Seventeenth day of October One thousand Nine hundred and Thirteen.

GLADSTONE.  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

Basutoland  
copy for  
authentication sec.

Revised

\* No. 26 of 1913.]

### PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is desirable to make further provision out of the public revenue or other funds of Basutoland to meet certain additional expenditure incurred during the year which ended the Thirty-first day of March 1913;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue or other funds of Basutoland are hereby charged with a further sum of £4021. 3s. 11d. (four thousand and twenty-one pounds three shillings and eleven pence) to meet expenditure incurred during the year which ended the Thirty-first day of March 1913 in excess of the amounts appropriated for that purpose according to the particulars set forth in the schedule to this Proclamation.

2. This Proclamation may be cited as the Basutoland Further Appropriation (1912-1913) Proclamation 1913 and shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twelfth day of November One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

### SCHEDULE.

No.	Head of Service.	Amount provided.	Amount expended.	Excess.
2	Police ... ..	£20,967	£21,055 7 8	£88 7 8
5	Medical Expenses ... ..	1,200	1,346 18 1	146 18 1
6	Office Contingencies ... ..	2,700	3,088 10 6	388 10 6
8	Administration of Justice ... ..	3,880	4,088 6 8	208 6 8
10	Hospitals ... ..	11,606	11,686 13 5	80 13 5
11	Education ... ..	14,248	14,656 10 10	408 10 10
12	Rewards for Special Services ... ..	100	131 7 6	31 7 6
15	Agriculture ... ..	15,734	18,185 16 11	2,451 16 11
17	Pensions ... ..	2,662	2,878 12 4	216 12 4
		£73,097	£77,118 3 11	£4,021 3 11

Printed by the Government Printer, Pretoria.

★ No. 27 of 1913.]

# PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS it is desirable to make provision out of the public revenue or other funds of Basutoland for the service of the year ending the Thirty-first day of March 1914;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue or other funds of Basutoland are hereby charged towards the service of the year ending the Thirty-first day of March 1914 with a sum of £183,865 (one hundred and eighty-three thousand eight hundred and sixty-five pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the schedule annexed hereto and more particularly specified in the estimates of the expenditure of Basutoland for the year ending the Thirty-first day of March 1914 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Basutoland Appropriation 1913-14 Proclamation 1913 and shall have force and take effect from the First day of April, 1913.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twelfth day of November One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

## SCHEDULE.

1	Establishments ... ..	£15,892
2	Police ... ..	21,337
3	Post Office ... ..	4,942
4	Allowances to Chiefs and Headmen ... ..	7,000
5	Office Contingencies ... ..	1,750
6	Administration of Justice ... ..	4,116
7	Public Works, Recurrent... ..	2,706
8	Public Works, Extraordinary ... ..	7,177
9	Medical ... ..	13,211
10	Education ... ..	16,923
11	Rewards for Special Services ... ..	150
12	Audit ... ..	375
13	Miscellaneous ... ..	3,575
14	Agriculture... ..	6,016
15	Prevention of East Coast Fever... ..	10,649
16	National Council ... ..	1,600
17	Pensions ... ..	3,369
18	Leper Settlement ... ..	5,778

£151,865

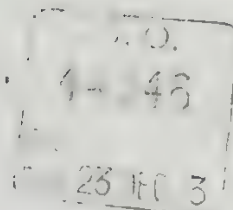
### Capital Expenditure:—

19	New Telephone System in Maseru and Main Line between Leribe and Quthing ... ..	4,500
20	New Telephone Line between Qacha's Nek and Matatiele ... ..	1,500
21	Improvement of Water Supply at Maseru and other Stations ... ..	6,000
22	Construction and Maintenance of Roads, Bridges, etc., and Water Supply for Native Villages ... ..	9,000
23	Agriculture—Afforestation, Treatment of Dongas, and Agri- cultural School and Farm ... ..	6,500
24	Veterinary—Improvement of Stock, Eradication of Scab, and Construction of Show Yards, Grants, etc.... ..	3,500
25	Supervision ... ..	1,000

£183,865

Printed by the Government Printer, Pretoria.

SAVED  
with comment.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WITHEAS it is expedient to extend the operation of Proclamation No. 11 of 1907 which makes provision for preventing the spread amongst sheep and goats in the Bechuanaland Protectorate of the disease known as "Scab" so as to include the whole of the Tati District within the scope of the said proclamation;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. Section one of Proclamation No. 11 of 1907 shall be and is hereby amended by the deletion of the last portion thereof from the word "excluding" to the end of the section.



2. This Proclamation shall have force and effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Norwich*  
this *fifteenth* day of *November*  
thousand Nine hundred and Thirteen.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

for Imperial Secretary.

Basutoland  
Copy for  
authenticated set.

Admission

No. 29 of 1913.]

### PROCLAMATION

By HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Basutoland Marriage Proclamation 1911 with reference to the publication of banns;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section four of the Basutoland Marriage Proclamation 1911 shall be and is hereby repealed and the following section substituted therefor.

4. Banns may be published either

(a) in public in the ordinary manner on three successive Sundays during divine service—

(i) where the parties to the intended marriage belong to the same congregation in a church or other building habitually used for public worship by such congregation, and

(ii) where the parties to the intended marriage belong to different congregations, in the churches or other buildings habitually used for public worship by each such congregation; or

(b) by posting them up for a period covering three successive Sundays in a conspicuous place to which the public have access—

(i) where the parties to the intended marriage reside in the same district at the Office of Assistant Commissioner in such district, and

(ii) where the parties to the intended marriage reside in different districts, at the Offices of the Assistant Commissioners in each such district.

2. This Proclamation shall be read as one with the Basutoland Marriage Proclamation 1911 and shall take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Fifteenth day of November One thousand Nine hundred and Thirteen.

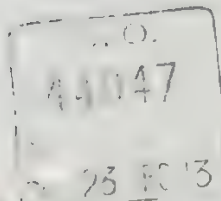
GLADSTONE,

High Commissioner.

By Command of His Excellency the High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

Printed by the Government Printer, Pretoria.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to proclaim a  
certain portion of land in Swaziland to be Crown Land;

NOW THEREFORE under and by virtue of the  
powers, authorities and jurisdiction conferred upon and  
committed to me by His Majesty under the Swaziland  
Order in Council 1903 as amended by the Swaziland Order  
in Council 1906 and the Swaziland Order in Council 1909  
and by virtue of the further authority conferred upon  
me under the Swaziland Crown Lands and Minerals Order  
in Council 1908 as amended by the Swaziland Crown Lands  
and Minerals Amendment Order in Council 1910, I do  
hereby declare proclaim and make known as follows:-

The area of land in Swaziland described in  
the Schedule to this Proclamation shall from the date  
of the publication of this Proclamation in the Gazette  
be Crown Land and shall be registered and known as  
Lot No. 29 District Mbabane (South), Swaziland, provided

always that the Proclamation of the said area as Crown  
land shall not effect any concession lease servitude or  
other right subsisting in respect of the said area which  
is registered at the date of such publication and is  
not vested in the Crown.

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Perth*  
this *fiftieth* day of *November* One thousand  
Nine hundred and Thirteen.



*W. H. Dutton*

High Commissioner

By Command of His Excellency  
the High Commissioner.

*C. A. Dutton*

for Imperial Secretary.



SCHEDULE

portion of land held under Land Concession No. 63  
in extent 1492 morgen 41 square roods as shown on  
Diagram S.G. No. S 22/10 confirmed by the Surveyor  
General by the figure L,F,G mid Makasatwe Spruit to  
H, mid Makasatwe Spruit to its junction with the  
Kukwean River at K, mid Kukwean River to A,B,C mid  
Umfunsin River to M,L.

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**PROCLAMATION**

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by an Order of His late Majesty-in-Council dated the 24th day of October 1904, hereto annexed, entitled the British Protectorates Neutrality Order-in-Council 1904, provision is made for the regulation of the conduct of the inhabitants of British Protectorates and other persons residing therein during the existence of hostilities between Foreign States with which His Majesty is at peace;

And whereas the said Order-in-Council as amended by an Order of His late Majesty-in-Council dated the 14th day of November 1904, also annexed hereto, extends (amongst other British Protectorates) to Swaziland;

And whereas it is provided by section *three* of the first-named Order-in-Council that it shall come into operation in any British Protectorate to which it extends on the day on which it shall be proclaimed by the Governor thereof;

Now therefore I do hereby declare proclaim and make known that the British Protectorates Neutrality Order-in-Council 1904 as amended by the British Protectorates Neutrality (Amendment) Order-in-Council 1904 shall come into operation on this date in Swaziland.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Fifteenth day of November One thousand Nine hundred and Thirteen.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

AT THE COURT AT BUCKINGHAM PALACE,  
the 24th day of October, 1904.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT, MR. SECRETARY BRODRICK,  
LORD WINDSOR, MR. A. GRAHAM MURRAY.

WHEREAS it is expedient to make provision for the regulation of the conduct of the inhabitants of British Protectorates and other persons residing therein, during the existence of hostilities between foreign states with which His Majesty is at peace;

It is hereby ordered by the King's Most Excellent Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, and by and with the advice of His Majesty's Privy Council, as follows:—

*Preliminary.*

1. This Order-in-Council may be cited for all purposes as "The British Protectorates Neutrality Order-in-Council, 1904."

2. This Order shall extend to all the Protectorates of His Majesty, including the adjacent territorial waters, enumerated in the Schedule to this Order.

3. This Order shall be proclaimed in every British Protectorate by the Governor thereof as soon as may be after he receives notice of this Order, and shall come into operation in that British Protectorate on the day of such Proclamation, and the time at which this Order comes into operation in any place is, as respects such place, in this Order referred to as the commencement of this Order.

*Illegal Enlistment.*

4. If any person, without the licence of His Majesty, being a British subject or a native of a Protectorate, either within or without the Protectorate, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with His Majesty, and in this Order referred

July  
14/22/13

to as a friendly state, or whether a British subject or not within the Protectorate, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid:—

He shall be guilty of an offence against this Order and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the licence of His Majesty, being a British subject or a native of a Protectorate, quits or goes on board any ship with a view of quitting a Protectorate, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or whether a British subject or not, within a Protectorate, induces any other person to quit or to go on board any ship with a view of quitting a Protectorate with the like intent:—

He shall be guilty of an offence against this Order, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit a Protectorate or to embark on any ship within a Protectorate under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:—

He shall be guilty of an offence against this Order, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

7. If the master or owner of any ship, without the licence of His Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within a Protectorate any of the following persons, in this Order referred to as illegally enlisted persons; that is to say:—

- (1) Any person who being a British subject or a native of a Protectorate, within or without a Protectorate, has without the licence of His Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state;
- (2) Any person, being a British subject or a native of a Protectorate who, without the licence of His Majesty, is about to quit a Protectorate with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;
- (3) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

Such master or owner shall be guilty of an offence against this Order, and the following consequences shall ensue; that is to say,

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour; and
- (2) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of a magistrate, and

- (3) All illegally enlisted persons shall immediately on the discovery of the offence or taken on shore, and shall not be allowed to return to the ship.

*Illegal Shipbuilding and Illegal Expeditions.*

8. If any person within a Protectorate, without the licence of His Majesty, does any of the following acts: that is to say—

- (1) Builds or agrees to build, or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or
- (2) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or
- (3) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or
- (4) Dispatches, or causes or allows to be dispatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state:

Such person shall be deemed to have committed an offence against this Order, and the following consequences shall ensue:—

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2) The ship in respect of which any such offence is committed, and her equipment shall be forfeited to His Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid shall not be liable to any of the penalties imposed by this article in respect of such building or equipping if he satisfies the conditions following: (that is to say)

- (1) If forthwith upon a Proclamation of Neutrality being issued by His Majesty he gives notice to the Governor that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done or to be done under the contract as may be required by the Governor;
- (2) If he gives such security and takes and permits to be taken such other measures, if any, as the Governor may prescribe for ensuring that such ship shall not be dispatched, delivered or removed without the licence of His Majesty until the termination of such war as aforesaid.

9. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on

the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

10. If any person within a Protectorate and without the licence of His Majesty—



By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the Protectorate was a ship in the military or naval service of any foreign state at war with any friendly state,—

Such person shall be guilty of an offence against this Order and shall be punishable by fine and imprisonment or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

11. If any person within the limits of a Protectorate, and without the licence of His Majesty—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

- (1) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Order and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2) All ships and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to His Majesty.

12. Any person who aids, abets, counsels or procures the commission of any offence against this Order shall be liable to be tried and punished as a principal offender.

13. The term of imprisonment to be awarded in respect of any offence against this Order shall not exceed two years.

#### *Illegal Prize.*

14. If, during the continuance of any war in which His Majesty may be neutral any ship, goods or merchandise captured as prize of war within the territorial jurisdiction of His Majesty, in violation of the neutrality of His Majesty, or captured by any ship which may have been built, equipped, commissioned, or dispatched, or the force of which may have been augmented, contrary to the provisions of the Foreign Enlistment Act, 1870, or of this Order, or any other Order of the like nature, are brought within the limits of a Protectorate by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the Government of the foreign state to which such owner belongs, to make application to the Court for seizure and detention of such prize, and the Court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such Court; and in the meantime and until a final order has been made on such application the Court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such Court in the exercise of its ordinary jurisdiction.

#### *General Provisions.*

15. For the purposes of this Order a licence by His Majesty shall be under the Sign Manual of His Majesty, or be signified by Order-in-Council or by Proclamation of His Majesty.

*Legal Procedure.*

16. Any offence against this Order shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any Protectorate in which the person who committed such offence may be.

17. Any offence against this Order may be described in any indictment or other document relating to such offence, in cases where the mode of trial require such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within His Majesty's Dominions or to have been committed within a British Protectorate, and the venue of local description in the margin may be that of the district, town or place in which the trial is held.

18. The Court having the highest criminal jurisdiction in any British Protectorate may by warrant or instrument in the nature of a warrant in this article included in the term "warrant" direct that any offender charged with an offence against this Order shall be removed to some other place either in His Majesty's Dominions or in some other British Protectorate for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

19. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Order shall require the sanction of the Governor, and shall be had in the Court as defined by this Order, and not in any other Court; and the Court shall, in addition to any power given to the Court by this Order, have in respect of any ship or other matter brought before it in pursuance of this Order all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

20. Where any offence against this Order has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

21. The following officers, that is to say:—

- (1) Any officer of customs or other public officer drawing a salary of not less than £200 a year in the Protectorate, subject nevertheless to any special or general instructions from the Governor.
- (2) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer.
- (3) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer, may seize or detain any ship liable to be seized or detained in pursuance of this Order and such officers are in this Order referred to as the "local authority"; but nothing in this Order contained shall derogate from the power of the Court to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

22. Any officer authorized to seize or detain any ship in respect of any offence against this Order may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of His Majesty's Army or Navy or Marines, or any excise

officers or officers of customs, or any harbour master or dock master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Order, and any officer seizing or detaining any ship under this Order may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the King's Majesty, His Heirs and Successors, as against all persons so killed, maimed or hurt.

23. If the Governor is satisfied that there is a reasonable and probable cause for believing that a ship within the Protectorate has been or is being built, commissioned, or equipped contrary to this Order, and is about to be taken beyond the limits of such Protectorate, or that a ship is about to be dispatched contrary to this Order, such Governor shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner herein after mentioned.

The owner of the ship so detained, or his agent, may apply to the Court for its release, and the Court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown as represented by the Governor.

If the applicant establish to the satisfaction of the Court that the ship was not and is not being built, commissioned, or equipped, or intended to be dispatched contrary to this Order, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the Court that the ship was not and is not being built, commissioned or equipped, or intended to be dispatched contrary to this Order, then the ship shall be detained till released by order of the Governor.

The Court may in cases where no proceedings are pending for its condemnation release any ship detained under this article on the owner giving security to the satisfaction of the Court that the ship shall not be employed contrary to this Order, notwithstanding that the applicant may have failed to establish to the satisfaction of the Court that the ship was not and is not being built, commissioned, or intended to be dispatched contrary to this Order. The Governor may likewise release any ship detained under this article on the owner giving security to the satisfaction of such Governor that the ship shall not be employed contrary to this Order, or may release the ship without such security if the Governor think fit so to release the same.

If the Court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the Court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the Court, and any amount so assessed shall be payable by the proper financial officer of the Protectorate out of any moneys legally applicable for that purpose. The Court shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the Court in a summary way, in cases where the ship is released by the order of the Governor, before any application is made by the owner or his agent to the Court for such release.

Nothing in this article contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this article where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this article all proceedings for such condemnation shall be stayed; and where the Court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this article contained shall apply to any foreign non-commissioned ship dispatched from any Protectorate after having come within the same under stress of weather or in the course of a peaceful voyage and upon which ship no fitting out or equipping of a warlike character has taken place in the Protectorate.

24. Where it is represented to any local authority as defined by this Order, and such local authority believes the representation that there is a reasonable and probable



cause for believing that a ship within a Protectorate has been or is being built, commissioned, or equipped contrary to this Order, and is about to be taken beyond the limits of the Protectorate, or that a ship is about to be dispatched contrary to this Order, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Governor.

Upon the receipt of such communication the Governor may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped, or intended to be dispatched in contravention of this Order, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Governor without any communication from the local authority.

Where the Governor orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court in a summary way in like manner as he is entitled to be indemnified where the Governor having issued his warrant under this Order releases the ship before any application is made by the owner or his agent to the Court for such release.

25. The Governor may, by warrant, empower any person to enter any dockyard or other place within the Protectorate and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state and to search such ship.

26. An appeal may be had from any decision of the Court under this Order to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the Court.

27. Subject to the provisions of this Order providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Order.

28. The Governor shall not be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Order, or be examinable as a witness, except at his own request, in any Court of justice in respect of the circumstances which led to the issue of the warrant.

#### *Interpretation Clause.*

29. In this Order if not inconsistent with the context the following terms have the meanings herein after respectively assigned to them that is to say:

"Court" and "magistrate" mean respectively such Court and such officer as the Governor may by notification published in the Protectorate from time to time prescribe.

"Foreign State" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people:

"Military Service" shall include military telegraphy and any other employment whatever in or in connection with any military operation;

"Naval Service" shall, as respects a person include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, storeship, privateer or ship under letters of marque; and as respects a ship, include any user of a ship as a transport, store-ship, privateer or ship under letters of marque:

"The Governor" shall mean the officer by whatever name designated for the time being administering the government of a Protectorate;

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel or other craft or battery, made to move either on the surface of or under water; or sometimes on the surface of and sometimes under water.



- "Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:
- "Equipping" in relation to a ship shall include the furnishing of a ship with any tackle, apparel, furniture, provisions, arms, munitions or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service and all words relating to equipping shall be construed accordingly:
- "Ship and Equipment" shall include a ship and everything in or belonging to a ship:
- "Master" shall include any person having the charge or command of a ship:
- "Hard Labour" shall include such punishment in the nature of hard labour as may be awarded under any law for the time being in force within the Protectorate.

30. Nothing in this Order contained shall subject to forfeiture any commissioned ship of any foreign state, or give to the Court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign state any jurisdiction which it would not have had if this Order had not passed.

And the Right Honourable the Marquess of Lansdowne, K.G., and the Right Honourable Alfred Lyttelton, two of His Majesty's Principal Secretaries of State are to give the necessary directions herein accordingly.

A. W. FITZROY.

#### SCHEDULE.

List of Protectorates to which this Order applies:—

Northern Nigeria.  
Southern Nigeria.  
Sierra Leone Protectorate.  
Gambia Protectorate.  
Lagos Protectorate.  
Northern Territories of the Gold Coast.  
Southern Rhodesia.  
Barotsiland.  
North-Western Rhodesia.  
North-Eastern Rhodesia.  
Swaziland.  
British Central Africa.  
British East Africa.  
Uganda.  
Somaliland.  
Weihaiwei.  
British North Borneo.  
Brunei.  
Sarawak.

Any protected island or territory for the time being within the limits of the Pacific Order-in-Council, 1893.

AT THE COURT AT BUCKINGHAM PALACE.

*This 14th day of November, 1904.*

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY.

LORD CHANCELLOR.	MR. A. GRAHAM MURRAY.
LORD PRESIDENT.	MR. J. L. WHARTON.
EARL OF KINTORE.	SIR A. F. ACLAND-HOOD.
MR. SECRETARY AKERS-DOUGLAS.	

Whereas by an Order-in-Council bearing date the 24th day of October, 1904, and known as the British Protectorates Neutrality Order-in-Council, 1904, provision was made for the regulation of the conduct of the inhabitants of British Protectorates and other persons residing therein, during the existence of hostilities between foreign States with which His Majesty is at peace;

And whereas the Bechuanaland Protectorate was not included amongst the Protectorates enumerated in the Schedule to the said Order and the said Order therefore does not extend to the said Protectorate;

And whereas it is expedient that the said Order should extend to the said Protectorate, and that the said Schedule should be otherwise amended:

Now, therefore, His Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

1. The British Protectorates Neutrality Order-in-Council, 1904, is hereby amended by the substitution of

the following Schedule for the Schedule annexed to the said Order, viz.:—

SCHEDULE.

List of Protectorates to which this Order applies:—

Northern Nigeria.  
Southern Nigeria.  
Sierra Leone Protectorate.  
Gambia Protectorate.  
Lagos Protectorate.  
Northern Territories of the Gold Coast.  
Bechuanaland Protectorate.  
Southern Rhodesia.  
Barotziland—North-Western Rhodesia.  
North-Eastern Rhodesia.  
Swaziland.  
British Central Africa.  
British East Africa.  
Uganda.  
Somaliland.  
Weihaiwei.  
British North Borneo.  
Brunei.  
Sarawak.

Any protected island or territory for the time being within the limits of the Pacific Order-in-Council, 1893.

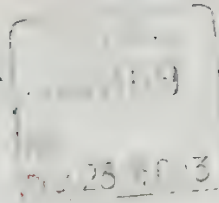
2. This Order may be cited as the British Protectorates Neutrality (Amendment) Order-in-Council, 1904.

A. W. FITZROY.

(Printed by the Government Printer, Pretoria.)

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SANCTIONED.  
With Comment



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to amend the Southern Rhodesia Native Regulations Proclamation 1910 so as to provide for the appointment of one Chief Native Commissioner for the territory of Southern Rhodesia;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows;

1. Section eleven of the Southern Rhodesia Native Regulations Proclamation 1910 shall be and is hereby repealed and the following provisions shall be and are hereby substituted therefor:

"There shall be a Chief Native Commissioner for the territory who shall discharge such duties and functions as may from time to time be determined and defined by the Administrator-in-Council. The appointment salary suspension and removal of the Chief Native Commissioner

shall be governed by section seventy-nine (2) of the Southern Rhodesia Order in Council 1898".

2. This Proclamation shall be read as one with the Southern Rhodesia Native Regulations Proclamation 1910 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Pretoria*  
this *Eighteenth* day of *November* One thousand  
Nine hundred and Thirteen.



*[Signature]*  
High Commissioner

By Command of His Excellency  
the High Commissioner.

*[Signature]*

for Imperial Secretary.



No. 23 of 1913.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

44045  
FEB 25 1913  
SANCTIONED

WHEREAS it is desirable to provide that the provisions of the Cattle Purchase for Export (Bechuanaland Protectorate) Proclamation 1911 (hereinafter referred to as "the said Proclamation") shall not apply to the purchase of cattle at auction sales of cattle held in the Bechuanaland Protectorate with the approval of the Resident Commissioner;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The provisions of the said Proclamation shall not apply to the purchase of cattle at auction sales held in the Bechuanaland Protectorate with the written approval of the Resident Commissioner and persons purchasing cattle at any such sale shall not be required for the purpose of such purchase to obtain any licence or make any deposit or find any security under the said Proclamation.

2. Any auctioneer who desires to obtain the approval of the Resident Commissioner of any auction sale of cattle proposed to be held by him in the Bechuanaland Protectorate shall make written application for such approval stating the date and place of the proposed sale and such further particulars as may be required by the Resident Commissioner and upon receipt

of such application the Resident Commissioner shall have discretion either to grant or to withhold such approval.

3. Where the Resident Commissioner has under this Proclamation approved the holding of any auction sale of cattle in the Bechuanaland Protectorate a certificate under the hand of the auctioneer who conducted such sale stating that any cattle described in such certificate were purchased by the person named therein at such auction sale shall be prima facie evidence of the fact of such purchase.

4. This Proclamation may be cited for all purposes as the Cattle Purchase for Export (Bechuanaland Protectorate) Amendment Proclamation 1913 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

Given under my Hand and Seal at *Pretoria*  
this *Eighteenth* day of *November*.  
One thousand Nine hundred and Thirteen.



*[Signature]*

High Commissioner.

By Command of His Excellency  
The High Commissioner.

*C. d. vis. Dutton*  
for Imperial Secretary.

*Resolutions  
Copy for  
authentication  
Set.*

No. 4 of 1914

## PROCLAMATION

By His Excellency the High Commissioner.

*Amended*

WHEREAS it is expedient to provide for the suspension of pensions granted under Proclamation No. 13 of 1908 or any amendment thereof to persons who have been employed in the service of the Government of Basutoland in the event of such persons becoming directors of companies operating in Basutoland or being employed by any such company in Basutoland without the permission of the High Commissioner first had and obtained;

And whereas it is also expedient further to amend Schedule A to Proclamation No. 13 of 1908;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. If any person to whom a pension has been granted under Proclamation No. 13 of 1908 or any amendment thereof becomes on his final retirement from the service of the Government of Basutoland either a director of any company the principal part of whose business is in any way directly concerned with Basutoland, or an officer or a servant employed in Basutoland by any such company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every such case it shall be lawful for the High Commissioner with the approval of the Secretary of State to direct that such pension shall forthwith cease; provided always that it shall be lawful for the Secretary of State on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Basutoland, as the case may be, to give directions for the restoration of such pension with retrospective effect, if he shall see fit, to such a date as he shall specify.

2. Schedule A to Proclamation No. 13 of 1908 as amended by Proclamation No. 59 of 1910 and by Proclamation No. 16 of 1912 shall be and is hereby further amended as follows:—

- (a) By the insertion therein immediately after the words "Resident Commissioner" where they first occur of the words, "Treasurer and Deputy-Resident Commissioner whether the offices are filled separately or held by the same individual."
- (b) By the deletion of the words "Financial Secretary" and "Accounting Clerk to the Financial Secretary" and the insertion in lieu thereof of the words "Accountant" and "Treasury Clerk."
- (c) By the insertion immediately after the words "Comptroller of Stores" of the words "Chief Clerk to the Resident Commissioner."
- (d) By the insertion immediately before the words "European Interpreters" of the words "Store and Stationery Clerk."
- (e) By the deletion of the words "Assistant Engineer" and the insertion in lieu thereof of the words "Assistant Engineers" and "Clerk of Works."
- (f) By the insertion immediately after the words "Principal Veterinary Surgeon exclusively employed by Government" of the words "Agricultural Officer."

Provided that the deletion from the said Schedule of the names of certain offices in accordance with this section shall not affect the amount of the pension payable to any former holder of any such office.

3. This Proclamation shall be read as one with Proclamation No. 13 of 1908 and the Proclamations amending the same and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Eighteenth day of November One thousand Nine hundred and Thirteen.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

No 359 1913

PROCLAMATION

1004  
25 1913

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient to provide for the suspension of pensions granted under Proclamation No. 26 of 1906 or any amendment thereof to persons who have been employed in the service of the Government of the Bechuanaland Protectorate (hereinafter referred to as the Protectorate) in the event of such persons becoming directors of companies operating in the Protectorate or being employed by any such company in the Protectorate without the permission of the High Commissioner first had and obtained;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. If any person to whom a pension has been granted under Proclamation No. 26 of 1906 or any amendment thereof becomes on his final retirement from the service of the Government of the Protectorate either a director of any company the principal part of whose business is in any way directly concerned with the Protectorate, or an officer or a servant employed in the Protectorate by any such company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every such case it shall be lawful for the High Commissioner with the approval of the Secretary of State to direct that such pension shall forthwith cease; provided always that



it shall be lawful for the Secretary of State on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in the Protectorate, as the case may be, to give directions for the restoration of such pension with retrospective effect, if he shall see fit, to such a date as he shall specify.

2. This Proclamation shall be read as one with Proclamation No. 26 of 1906 and the Proclamations amending the same and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Metchin*  
this *Eighteenth* day of *November* One thousand  
Nine hundred and Thirteen.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. L. Dutton*

for Imperial Secretary.

PROCLAMATION

BY HIS MAJESTY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the suspension of pensions granted under Proclamation No. 9 of 1906 or any amendment thereof or granted by any other proclamation in force in Swaziland to persons who have been employed in the service of the Government of Swaziland or in the service of the Crown in Swaziland in the event of such persons becoming directors of companies operating in Swaziland or being employed by any such company in Swaziland without the permission of the High Commissioner first had and obtained;

NOW KNOW ALL MEN under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. If any person to whom a pension has been granted under Proclamation No. 9 of 1906 or any amendment thereof or by any other Proclamation in force in Swaziland becomes on his final retirement from the service of the Government of Swaziland or from other service under the Crown either a director of any company the principal

part of whose business is in any way directly concerned with Swaziland, or an officer or a servant employed in Swaziland by any such Company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every <sup>such</sup> case it shall be lawful for the High Commissioner with the approval of the Secretary of State to direct that such pension shall forthwith cease; provided always that it shall be lawful for the Secretary of State on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Swaziland, as the case may be, to give directions for the restoration of such pension with retrospective effect, if he shall see fit, to such a date as he shall specify.

2. This Proclamation shall be read as one with Proclamation No. 9 of 1908 and the Proclamations amending the same and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

Given under my Hand and Seal at *Pretoria*  
this *eighteenth* day of *November* One thousand  
Nine hundred and Thirteen.



High Commissioner.

By Command of His Excellency  
the High Commissioner.

*L. A. W. Dutton.*

for Imperial Secretary.



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P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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SANCTIONED

WHEREAS it is desirable to make further provision out of the public revenue or other funds of the Bechuanaland Protectorate to meet certain additional expenditure incurred during the year which ended the thirty-first day of March 1913;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The public revenue or other funds of the Bechuanaland Protectorate are hereby charged with a further sum of £468.13.0 (four hundred and fifty-eight pounds thirteen shillings) to meet expenditure incurred during the year which ended the thirty-first day of March 1913 in excess of the amounts appropriated for that purpose according to the particulars set forth in the schedule to this Proclamation.

2. This Proclamation may be cited as the Bechuanaland Protectorate Further Appropriation (1912-13) Proclamation 1913 and shall have force and take effect from the date of its publication in the Gazette.

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GOD SAVE THE KING!

Given under my Hand and Seal at *Pretoria*  
this *fifteenth* day of *November* One thousand  
Nine hundred and Thirteen.



*Alfred*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. K. S. Datta*

for Imperial Secretary.

SCHEDULE

No.	<u>Need of Service</u>	<u>Amount provided</u>	<u>Amount expended</u>	<u>Excess</u>
	Pensions	21,076	21,109. 0.7	2 33. 0. 7
	Miscellaneous	6,430	6,604. 1.0	174. 1. 0
	Public Works Recurrent	<u>2,000</u>	<u>2,251.11.5</u>	<u>251.11. 5</u>
		<u>29,506</u>	<u>29,964.13.0</u>	<u>458.13. 0</u>

PROCLAMATION

*Acknowledged*

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Schedule to Proclamation No. 16 of 1907 (hereinafter referred to as "the said Proclamation") so as to provide more adequately for the stamping of documents used in certain Civil Cases in Courts of Assistant Commissioners in Basutoland;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The Schedule to the said Proclamation shall be and is hereby amended by the addition at the end of the Section headed "(a) Assistant Commissioner's Courts" of the following words, that is to say:-

"Upon every document not included in this section but included in the next succeeding section under the heading "Resident Commissioner's Court" the duty or fees prescribed in respect of such document under such heading".

2. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !



Given under my Hand and Seal at Pretoria this  
Eighteenth day of November One Thousand Nine hundred and  
Thirteen.

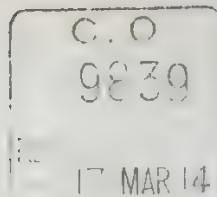
GLADSTONE

High Commissioner.

By Command of His Excellency  
the High Commissioner.

C.L.O'B. DUTTON.

for Imperial Secretary.



P R O C L A M A T I O N .

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

-----

SWAZILAND

WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Land;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order-in-Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order-in-Council 1910, I do hereby declare proclaim and make known as follows:-

The area of the land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Land and shall be registered and known as Lot No. 30 District Peak, Swaziland, provided always that the Proclamation of the said area as Crown Land shall not affect any Concession Lease servitude or other right subsisting in respect of the said area which is registered

at the date of such publication and is not vested  
in the Crown.

GOD SAVE THE KING .

Given under my Hand and Seal at *Norwich*  
this *Eleventh* day of *December*  
One thousand Nine hundred and Thirteen.



*Arthur*

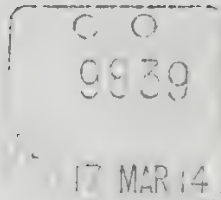
High Commissioner.

By Command of His Excellency the High  
Commissioner.

*L. K. Dutton*

for Imperial Secretary.

SCHEDULE.



Portion of land held under Mineral and Land Concession  
No. 19 M. and L. in extent 7640 morgen 458 square  
roods as shewn on Diagram S.G.No.S.109/11 confirmed  
by the Surveyor-General by the figure A,B,C mid Black  
Umbeloosi River to D,A.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is desirable to make provision for the closing of shops on one half day in the week, either Wednesday or Saturday, and for the closing altogether of shops on Public Holidays, where such is the wish of two-thirds of the shopkeepers in any area of the Bechuanaland Protectorate;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. Upon an application in writing being made to the Resident Commissioner of the Bechuanaland Protectorate praying for an order that all shops within any area of the Bechuanaland Protectorate not less than one square mile in extent may be closed on one day in each week either Wednesday or Saturday as may be specified in the application not earlier than one o'clock or later than one-thirty in the afternoon, and altogether on Public Holidays, the Resident Commissioner on being satisfied that the shopkeepers of not less than two-thirds in number of the shops within such area have signed the application, may make an order giving effect to the application and defining the limits of the said area.

2. Such order of the Resident Commissioner shall take effect at a date named therein, being not less than one month after the making thereof, and shall before that date be published in the Gazette and in such other manner as to the Resident Commissioner may appear best fitted to ensure publicity for the same.

3. An order of the Resident Commissioner under this Proclamation may be amended by a subsequent order made upon the like application and subject to the like provisions and having a like effect as if it were an original order. If at any time it shall be made to appear to the satisfaction of the Resident Commissioner that the shopkeepers of not less than two-thirds in number of the shops to which an order for the time being in force under this Proclamation relates, are opposed to the continuance of the order, the Resident Commissioner shall revoke the said order and thereupon the order, in so far as it is revoked, shall cease to have effect, but the revocation of an order shall be without prejudice to the making of another order under this Proclamation.

4. Whenever any day in the week is a Public Holiday, and the half holiday in such week which is appointed under the preceding provisions of this Proclamation does not fall on the same day as such Public Holiday then it shall not be incumbent on any shopkeeper to close on such half-holiday. The operation of this Proclamation shall be suspended with reference to the half holidays next preceding Christmas and New Year in each year.

5. Any shopkeeper who shall fail or neglect to close his shop on any Public Holiday or other day as required by any order made under this Proclamation shall be guilty of an offence against this Proclamation and shall be liable to a fine not exceeding ten pounds for each occasion on

which he fails or neglects so to do.

6.(1) Where any offence for which the shopkeeper of a shop is liable under this Proclamation to a fine has in fact been committed by some agent or servant of such shopkeeper, such agent or servant shall be liable to the same fine as if he were the shopkeeper.

(2) Where a shopkeeper is charged with an offence against this Proclamation he shall be entitled upon information duly laid by him to have any agent or servant whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if after the commission of the offence has been proved the court is satisfied that the shopkeeper has used due diligence to enforce the observance of this Proclamation and the order made thereunder and that the agent or servant committed the offence in question without the knowledge, consent or connivance of the shopkeeper, the agent or servant shall be liable to be convicted of the offence and the shopkeeper shall be exempt from any fine.

7. No prosecution for any contravention of this Proclamation shall be commenced against any person after the lapse of a period of six weeks from the date of the alleged contravention.

8. (1) A duly licensed chemist and druggist shall not be liable to any fine under this Proclamation for supplying medicines, drugs or medical appliances on a half holiday after the hour appointed by an order made under this

Proclamation for the closing of shops, or on a Public Holiday, but this section shall not be deemed to authorise the shop of a chemist or druggist to be open on a half holiday after such hour, or on a Public Holiday, save so far as may be necessary for the purpose aforesaid.

- (ii) A shopkeeper who carries on the business of a newsagent shall not be liable to any fine under this proclamation for selling newspapers on a half holiday after the hour appointed by an order made under this proclamation for the closing of shops or on a Public Holiday but this section shall not be deemed to authorise the shop of a newsagent to be open on a half holiday after such hour or on a public holiday save so far as may be necessary for the purpose of selling newspapers.

9. Nothing in this proclamation or in any order made thereunder shall render the occupier of any premises liable to a fine for supplying any article to any persons lodging in such premises.

10. Nothing in this proclamation or in any order made thereunder shall be deemed to interfere with any transaction of Post Office business by the occupier of any shop who is also an officer of the Post Office.

11. It shall be sufficient in any prosecution for contravention of any provision of this Proclamation to state the name of the ostensible person by whom, or usual title of the firm, company, or association under which business is carried on.



12. Where proof is necessary of the appointment by the Resident Commissioner of a particular day as a half holiday for any area the production of a copy of the Gazette containing the appointment of such day as a half holiday for such area shall be sufficient proof thereof.

13. Nothing in this Proclamation shall be deemed to constitute as a non-business day within the meaning of Part I Section I of the Bills of Exchange Act 1893 as applied to the Bechuanaland Protectorate by Proclamation 53 of 1910, and amended by Proclamation No. 34 of 1911, a day on which any half holiday appointed under this Proclamation shall fall, but such day shall be deemed to be a business day the hours of business wherein shall for the purposes of the said Act terminate at one o'clock in the afternoon.

14. In this Proclamation unless the context otherwise requires - "shop" means any building or portion of a building, booth, stall, or place where goods are exposed or offered for sale by retail and includes the place where the business of a barber is carried on. "Close" means close against the admission of any person for the purpose of trade or business for the remainder of the day. "Public Holiday" means a public holiday established by or appointed under Proclamation No. 34 of 1911. "shopkeeper" means the proprietor of a business carried on in a shop.

15. This Proclamation may be cited for all purposes as the Shops Holiday Closing Proclamation 1913 and shall have force and take effect from the date of its publication in the Gazette.

TOO SAVE THE KING!

Given under my Hand and Seal at *Pretoria*  
this *Eighteenth* day of *December* One thousand  
Nine hundred and Thirteen.



*Handwritten signature*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*Handwritten signature*  
for Imperial Secretary.

**PROCLAMATION**

By His Excellency THE HIGH COMMISSIONER.

*“Acknowledged”*

WHEREAS it is desirable to establish in Basutoland an asylum for the treatment of leprosy and the segregation of lepers therein and to make rules and regulations to govern the same;

Now therefore under and by virtue of the powers in me vested I do hereby proclaim declare and make known as follows:—

1. In this Proclamation unless inconsistent with the context—

- “leprosy” shall mean all forms of disease caused by the bacillus leproe of Hansen;
- “isolation ward” shall mean any premises in Maseru appointed by the Resident Commissioner by notice in the *Gazette* for use for the purpose of examination treatment and temporary detention of persons affected or suspected of being affected with leprosy;
- “asylum” shall mean any building or collection of buildings erected and established under the provisions of section two of this Proclamation and used for the treatment or detention of persons affected with leprosy together with the land surrounding such buildings and set apart and defined under the said section for the occupation of such persons;
- “superintendent” shall mean the medical practitioner appointed by the Resident Commissioner to have the direction and management of the asylum and any medical practitioner lawfully acting as superintendent;
- “police officer” shall mean any member of any police force which may from time to time be established by law;
- “principal medical officer” shall mean the Principal Medical Officer of Basutoland or any person for the time being lawfully acting in that capacity.

2. It shall be lawful for the Resident Commissioner to establish at Botsabelo near Maseru an asylum for the detention of persons affected with leprosy and to appropriate and set apart for the purpose of such asylum such land as may be available for the purpose. The establishment of the asylum and the boundaries of any land appropriated and set apart for such purpose shall be notified and defined by notice in the *Gazette*.

3. So soon as it shall come to the knowledge of any chief that any person in the ward of such chief is suffering or is suspected of suffering from leprosy such chief shall immediately notify the nearest Government officer of the presence of such leper or suspected leper.

4. (1) Every Government officer to whom notification shall have been made in terms of the preceding section shall immediately bring the case to the notice of the Assistant Commissioner of the district in which such leper or suspected leper is residing and the Assistant Commissioner shall take steps to cause the alleged leper to be examined by a medical officer and should the medical officer be of opinion that the person examined by him is suffering from leprosy he shall furnish the Assistant Commissioner with a certificate to that effect and the Assistant Commissioner shall upon receipt of such certificate issue an order for the removal of the alleged leper to the isolation ward.

(2) Any order made by an Assistant Commissioner under this section shall be termed an interim reception order, shall be addressed to the Principal Medical Officer and shall be delivered to a police officer.

(3) An interim reception order shall authorize any police officer to conduct the person named therein to the isolation ward and shall further authorize the reception and detention of such person in the isolation ward until the Government Secretary shall have signed and transmitted to the Principal Medical Officer an order for further detention, removal to the asylum, or discharge.

5. (1) Upon arrival of the alleged leper at the isolation ward he shall be further examined by two medical officers and should they agree that he is suffering from leprosy they shall issue and sign a certificate to that effect and such a certificate shall be forwarded to the Government Secretary who may on receipt of such a certificate issue an order (herein described as “a detention order”) which shall be transmitted in the first instance to the Principal Medical Officer and shall be forwarded by him to the superintendent.

(2) A detention order shall authorize

- (i) such further temporary detention in the isolation ward of the person named therein as may be necessary pending his removal to the asylum;
- (ii) the removal of such person to the asylum under the conduct of any police officer or officer of the asylum;
- (iii) the reception and detention of such person in the asylum in accordance with the provisions of this Proclamation until such time as he may obtain a certificate of discharge.

6. (1) Should the two medical officers who examine the alleged leper on arrival at the isolation ward not agree that he is suffering from leprosy they shall make a report on the case to the Government Secretary who shall after consideration of such report

(a) if he is satisfied thereby that the alleged leper is not suffering from leprosy, transmit to the Principal Medical Officer an order directing the discharge of the alleged leper from the isolation ward;

(b) if he is not so satisfied direct a further medical examination of the alleged leper by the Principal Medical Officer and such other medical officer or officers as he may think fit.

medical examination the Government Secretary is satisfied that the alleged leper is affected with leprosy he shall issue a detention order as provided in the preceding section.

(3) If on consideration of the report of such further medical examination the Government Secretary shall not be satisfied that the alleged leper is suffering from leprosy, he shall transmit an order to the Principal Medical Officer directing his discharge from the isolation ward.

7. An inspection of all the patients in the asylum shall be held at least once a year by a Board of Officers consisting of one administrative officer to be appointed by the Resident Commissioner, the Principal Medical Officer and the Superintendent or other medical officer; and the Resident Commissioner may also at any time require that any patient in the asylum shall be examined by such Board. Should any patient in the opinion of such Board be cured of his leprosy or be no longer a source of contagion to others the Board shall report to that effect to the Government Secretary who shall thereupon issue a certificate of discharge which shall authorize the discharge of the patient from the asylum, provided however that should it be considered desirable in the opinion of the Board that a patient so discharged shall be from time to time further examined the Board shall include in its report a recommendation to that effect and the Government Secretary shall in that case issue the certificate of discharge subject to the condition that the discharged patient shall at least once every six months or at such other interval as the Board may recommend present himself for examination by the medical officer of his district; and provided further that such medical officer may at some future date and from time to time extend the intervals at which the discharged patient is to present himself for such examination or may release the discharged patient from his obligation to present himself for such examination in the future. A report of such examinations shall be sent by the medical officer to the Principal Medical Officer. The certificate of discharge shall in all cases be given to the discharged person. Any discharged person who shall without showing good reason fail to present himself for examination as required by his certificate of discharge shall be guilty of contravention of the terms of this Proclamation.

8. Should a female patient while detained in the asylum be delivered of a child it shall be lawful as soon as convenient and at the discretion of the superintendent to remove the child from such patient and to place him under the care of such relatives as may in each particular case be deemed the most suitable, and should a female patient upon admission into the asylum recently have given birth to a child or have any child or children in her charge such child or children not being leprosy shall not be admitted into the asylum with such female patient but shall be placed under the care of relatives in the manner stated above.

9. Any person who shall harbour conceal or in any way hinder or assist in hindering the detection of any person whether an escaped patient from the asylum or other person suffering from or suspected of suffering from leprosy shall be guilty of a contravention of the terms of this Proclamation.

10. (1) Every person subject to an interim reception order shall during the course of removal to the isolation



ward and every person subject to a detention order shall while awaiting and during the course of removal to the asylum be deemed to be in lawful custody and every person detained in the isolation ward under an interim reception order or in the asylum under a detention order shall be deemed to be in lawful custody in the isolation ward or in the asylum as the case may be until removed or discharged therefrom under this Proclamation and while in such custody shall be subject to the provisions of this Proclamation and any regulations made thereunder.

(2) Any person who shall escape from such lawful custody may be pursued, arrested without warrant and taken back into custody by any person whomsoever where-soever he may be found.

(3) Any person who shall in any way aid or attempt to aid any person detained in lawful custody under this Proclamation in escaping or attempting to escape from such lawful custody and any person who shall connive at the escape or attempt to escape of any such person shall be guilty of a contravention of the terms of this Proclamation.

11. (1) Every person detained in lawful custody under the provisions of this Proclamation shall be permitted to receive visits from relatives, friends or legal advisers at such reasonable times and subject to such restrictions as may be determined by regulations made under this Proclamation.

(2) Save as is in this Proclamation provided and save as may be provided by any regulations made thereunder no communication or intercourse shall be allowed between persons detained in the asylum or isolation ward and any person not so detained who is not an officer or attendant of the asylum or isolation ward.

12. Any person trespassing in the asylum or damaging the fence or other property of the Government contained therein shall be guilty of contravening the terms of this Proclamation besides in addition being liable to make good such damage.

13. The Resident Commissioner may from time to time make alter or repeal regulations for any or all of the following matters:—

- (i) In respect of the duties discipline and intercourse of patients and their classification instruction employment and remuneration and the punishment of breaches of discipline.
- (ii) In respect of communication or intercourse between persons detained in the asylum or isolation ward and any person not so detained.
- (iii) For conferring jurisdiction on the superintendent or other officer of the asylum to try within the asylum certain offences committed by patients therein; for the necessary accommodation of patients sentenced to imprisonment or to restriction of liberty; for the procedure to be followed and the records to be kept and the returns made in connection therewith.
- (iv) For the care and administration of property of patients detained within the asylum.
- (v) For the appointment of a visiting committee and the duties of such committee.
- (vi) Generally for the due administration and efficient working of the Proclamation and carrying its purpose into effect and the care and comfort of lepers.

14. Any person who shall contravene the provisions of this Proclamation or of any regulation made thereunder shall be guilty of an offence and liable upon conviction to a penalty not exceeding ten pounds sterling and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

15. This Proclamation may be cited for all purposes as the "Leprosy Proclamation (Basutoland) 1913" and shall have force and take effect from the date of its publication in the *Gazette*.

(GOD SAVE THE KING.)

Given under my Hand and Seal at Pretoria this Nineteenth day of December One thousand Nine hundred and Thirteen.

GLADSTONE.  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. L. O'B. DUTTON,  
for Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

1909-1912

*"in effect" though  
not formally  
sanctioned*

C.O.

5373

13 1909

No. 1 of 1909.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the keeping of books in hotels and other places in Swaziland in which visitors shall be required to enter their names and other particulars;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. It shall be the duty of every keeper or person having the management of a place used as an hotel boarding-house lodging-house or other place wherein persons receive sleeping accommodation for money or valuable consideration to cause to be kept a book in which every person immediately he first receives such accommodation shall enter his name and the place from which he last came. The High Commissioner may from time to time by Notice in the Gazette prescribe the form of the book to be kept under this section.

2. Every such book shall be open at all reasonable times to the inspection of any member of a police force

- lawfully -

lawfully established in Swasiland.

3. Any person failing to comply with the requirements of this Proclamation or obstructing or preventing any member of such a police force as aforesaid in carrying out his powers thereunder or making any false entry in any such book shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to both such fine and such imprisonment.

**G O D   S A V E   T H E   K I N G !**

GIVEN under my hand and seal at *Pine Town*  
this *Nineteenth* day of *January*, one thousand  
nine hundred and nine.



*S. J. ...*

High Commissioner.

By Command of His Excellency the High Commissioner.

*W. ...*

Imperial Secretary.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to take measures for the eradication of the disease of "lung sickness" within the Bechuanaland Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. In this Proclamation the term "Government Veterinary Officer" shall mean the Government Veterinary Officer of the Bechuanaland Protectorate or any person for the time being lawfully acting in such capacity and the term "Stock Inspector" shall mean any person lawfully appointed to act as such in the said Protectorate.

2. It shall be lawful for the Government Veterinary Officer or any Stock Inspector to destroy or cause to be destroyed any animal found suffering from the disease of lung sickness.

3. Compensation shall be paid to the owner of any animal so destroyed to the amount of one-third of the market value of the animal before infection; such

- compensation -

compensation shall be assessed by the Government Veterinary Officer or Stock Inspector by whom or by whose order such animal was destroyed and shall in no case exceed four pounds.

4. Any person who is the owner of animals susceptible to the disease of lung sickness which have been in contact with an animal or animals infected with lung sickness shall inoculate or cause to be inoculated all such animals at his own expense and shall isolate them for a period of eight weeks or such longer period as the Government Veterinary Officer may by notice in writing determine. Any person who fails to comply with the provisions of this section shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

5. It shall be lawful for the Government Veterinary Officer, any Stock Inspector, or any other competent person authorised by the Resident Commissioner to inoculate or cause to be inoculated at the expense of the owner any animal susceptible to the disease of lung sickness which has been in contact with an animal or animals infected with lung sickness and to isolate, or cause to be isolated, such animals for a period of eight weeks or such longer period as the Government

- Veterinary -

Veterinary Officer <sup>may</sup> by notice in writing determine.

6. It shall be lawful for the Government Veterinary Officer, and Stock Inspector, or any person duly authorised by the Resident Commissioner to enter at all reasonable times upon any land or premises for the purpose of carrying out any of the provisions of this Proclamation.

7. Any person hindering or obstructing the Government Veterinary Officer, any Stock Inspector or any other person authorised by the Resident Commissioner while engaged in carrying out the provisions of this Proclamation shall upon conviction be liable to a fine of fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

8. The High Commissioner may from time to time by Notice in the Gazette apply the provisions of sections one to seven inclusive of this Proclamation to any portion of the Bechuanaland Protectorate and such provisions shall not be of force except in the districts to which they have been so applied.

9. Subject to the provisions of the last preceding section this Proclamation shall have effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

- GIVEN -

GIVEN under my hand and seal at *Cape Town*  
this *26<sup>th</sup>* day of *January*, one thousand  
nine hundred and nine.



*S. J. ...*

High Commissioner.

By Command of His Excellency the High Commissioner.

*W. ...*

Imperial Secretary.



No. of 1902.

C.O.

6327

RECEIVED 09

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation No. 59 of 1908 (hereinafter referred to as the said Proclamation):

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Section two of the said Proclamation shall be and is hereby amended by the deletion therefrom of sub-section (b) thereof together with the word "and" at the end of sub-section (a).

2. This Proclamation shall have effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

- GIVEN -

GIVEN under my hand and seal at *San Francisco*  
this *Twenty* day of *January* one thousand  
nine hundred and nine.



*Sullivan*

High Commissioner.

By Command of His Excellency the High Commissioner.

*CH Rodwell*

Imperial Secretary.

*Baerolund*

C. J.

6327

Re-

Re-

No. 4 of 1909.]

### PROCLAMATION

By His Excellency the High Commissioner

WHEREAS it is expedient to amend the High Commissioner's Proclamation No. 60 of 1908 hereinafter referred to as the said Proclamation;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. Section *two* of the said Proclamation shall be and is hereby amended by the deletion therefrom of sub-section *ch* the end together with the word "and" at the end of sub-section *ca*.

2. This Proclamation shall have effect from the date of its publication in the *Gazette*.

God Save the King.

Given under my Hand and Seal at Capetown this Twenty-first day of January One thousand Nine hundred and Nine.

SELBORNE,

High Commissioner

By Command of His Excellency the  
High Commissioner

C. H. RODWELL,

Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 6327 of 1902.

C. O.

6327

1902

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation No. 61 of 1908 (hereinafter referred to as the said Proclamation):

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section two of the said Proclamation shall be and is hereby amended by the deletion therefrom of sub-section (b) thereof together with the word "and" at the end of sub-section (a).

2. This Proclamation shall have effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

- GIVEN -



GIVEN under my hand and seal at *Lyons*  
this *20th* day of *January* one thousand  
nine hundred and nine.



*S. J. M.*

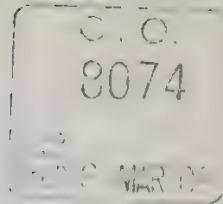
High Commissioner.

By Command of His Excellency the High Commissioner.

*G. H. M.*

Imperial Secretary.

PROCLAMATION



By His Excellency the High Commissioner.

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WHEREAS doubts have arisen as to the effect of the vesting in the same person of rights under different concessions made by or on behalf of the King or Paramount Chief of Swaziland :

AND WHEREAS it is expedient to remove such doubts

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. The liability to pay rent to the Swaziland Administration under a concession made by or on behalf of the King or Paramount Chief of Swaziland shall not be or be held to have been extinguished by reason of the fact that such concession and any other concession or any freehold grant affecting the same area or any portion of the same area hereafter become vested

or have before the date of the taking effect of this  
Proclamation vested in the same person.

2. This Proclamation shall have force and take  
effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

Given under my hand and seal at *Johannesburg*  
this *6<sup>th</sup>* day of *February* One thousand nine  
hundred and nine.



*Sellone*

High Commissioner.

By Command of His Excellency the High Commissioner.

*H. Rodwell*

Imperial Secretary.

PROCLAMATION

8072

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to make further provisions relative to the recruitment of native labourers within the territory of the Bechuanaland Protectorate (hereinafter referred to as "the Territory");

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Every labour agent who engages or procures any native labourer for employment beyond the borders of the Territory shall, before such labourer leaves the Territory bring him before an Assistant Commissioner, Magistrate, Assistant Resident Magistrate, Police Officer or other official appointed for the purpose by the Resident Commissioner, in order that he may sign in the presence of such official a form of contract containing such particulars as to the terms of his employment as the Resident Commissioner may from time to time prescribe. It shall be the duty of any such official to satisfy himself before any such contract is signed in his presence by a native labourer that the terms thereof have been fully understood by such labourer.

2. Every labour agent shall prepare fill in and sign a pass in such form as the Resident Commissioner may from time to time prescribe in respect of every native labourer engaged or procured by him for employment

- beyond -



beyond the borders of the Territory and shall produce such pass to the Official before whom the labourer signs the form of contract mentioned in the preceding section and such Official after countersigning such pass shall cause the same to be handed to the labourer.

3. Any labour agent neglecting or refusing to comply with any of the provisions of this Proclamation shall be liable to have his licence cancelled subject to the provisions of section eleven of the Bechuanaland Protectorate Native Labour Proclamation 1907.

4. This Proclamation shall be read as one with the Bechuanaland Protectorate Native Labour Proclamation 1907 and shall take effect from the date of publication in the Gazette.

GOD SAVE THE KING !

Given under my hand and seal at *Maseru*  
this *ninth* day of *February* one thousand nine  
hundred and nine.



*Sellman*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. H. Woodhouse*

Imperial Secretary.

P R O C L A M A T I O N

By His Excellency the High Commissioner.

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Whereas it is expedient to empower the High Commissioner to grant leases of rights to base metals in Swaziland which are Crown Mineral Rights within the meaning of the Swaziland Crown Lands and Minerals Order in Council 1908:

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation "Base Metals" shall include the metals and mineral substances mentioned in section two of Law No. 14 of 1897 of the Transvaal known as the Base Metal Law:

"Crown Mineral Area" shall mean any area in respect of which there exist rights to base metals which are Crown Mineral Rights within the meaning of that term as defined by the Swaziland Crown Lands and Minerals Order in Council 1908.

2. It shall be lawful for the High Commissioner to lease to any person the exclusive  
- right -

right to mine any base metals on any Crown mineral Area or on any portion of such area for such period and on such terms and conditions as he may think fit subject to any directions received from one of His Majesty's Principal Secretaries of State.

3. There shall be payable to the Swaziland Administration by the holder of any lease of rights to base metals granted by the High Commissioner in addition to any rent payable under such lease a royalty in respect of base metals won from land held thereunder of such amount not exceeding two and a half per cent on the value of such base metals on severance from the soil as may in each case be fixed by the High Commissioner

The amount of the royalty payable under this section in respect of base metals won from land held under any lease shall be fixed by the High Commissioner within two years from the date of the commencement of such lease and shall be payable as from the date of such commencement.

The provisions of sections eight and nine of the said Law No.14 of 1897 of the Transvaal shall apply mutatis mutandis for the purpose of ascertaining the amount and securing the payment of the royalty payable under this section.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

- Given -

Given under my hand and seal at Johannesburg  
this eighteenth day of February One thousand nine  
hundred and nine.

*Sellars*

High Commissioner.

By Command of His Excellency  
The High Commissioner.

*C. H. Smith*

Imperial Secretary.





No. 9 of 1909.

9839

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MAR 20 1909

## PROCLAMATION

By His Excellency the High Commissioner.  
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WHEREAS it is expedient to consolidate and amend the law relative to the payment and collection of hut tax in the Bechuanaland Protectorate

NOW, THEREFORE, under and by virtue of the powers in me vested I do hereby proclaim, declare and make known as follows:-

1. Proclamations Numbers 10 of 1899, 6 of 1900, 17 of 1904, 1 of 1907 and 41 of 1907 shall be and are hereby repealed: provided however that such repeal shall not affect any act done liability incurred penalty imposed or proceedings pending under the said Proclamations and payment of hut tax due thereunder for any year prior to the year ending March 31st 1910 may be enforced and penalties for non-payment thereof imposed in the same manner as if the said Proclamations had not been repealed.

2. For and in respect of every hut occupied as a dwelling-place by a native or natives there shall be paid to the Resident Commissioner, or to some person to be appointed by him, for the purposes of the Government of the Bechuanaland Protectorate, a hut tax at the rate of one pound per annum for the year ending the thirty-first day of March 1910 and every

- succeeding -

succeeding year, provided that if a hut be occupied by two or more male natives of full age the sum of one pound shall be paid by each of them.

3. It shall be lawful for an Assistant Commissioner to exempt from the payment of hut tax in any year any persons who shall be proved to his satisfaction to be incapacitated by extreme old age, blindness, personal infirmity or other cause from earning a livelihood.

4. Hut tax must be paid in sterling coin except in cases where the collector is satisfied that the person liable is unable to pay in such manner, in which case it shall be lawful for the said Collector to accept grain or stock in lieu thereof: the value of such grain or stock shall be deemed and taken to be the price current at the nearest market at which such grain or stock can be disposed of after deduction of the cost of conveying it to such market.

5. The hut tax for the twelve months ending on the thirty first day of March in any year shall become due on the first day of July in the preceding year, and shall be payable on and after that date on such days and at such places as may be notified by the duly authorised collectors of the said tax. After the thirtieth day of September in each year it shall be the duty of the Police to ascertain what huts are unpaid for, and thereupon to report the fact to the Assistant Commissioner within whose jurisdiction the said huts are situated.

6. Any native who shall refuse or wilfully neglect to make payment of the hut tax due by him within three months after the same shall have become due and payable shall be liable upon conviction to a fine not exceeding

five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

7. A receipt in such form as the Resident Commissioner may from time to time approve for the amount of hut tax paid by any native shall be given to such native in acknowledgment of the payment made by him and any receipt so given shall be kept by such native and produced for inspection on demand made by any person appointed to collect the said tax or by any police officer.

8. Any person forging or defacing any such receipt as aforesaid whether given under this Proclamation or under Proclamation No.41 of 1907 and any native using or attempting to use for the purpose of evading payment of hut tax any forged receipt or any receipt given in acknowledgment of the payment of hut tax made by any other native shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a period not exceeding one year.

9. It shall be lawful for the Resident Commissioner to appoint any Native Chief as collector of hut tax within any area. Chiefs so appointed shall receive from an Assistant Commissioner books containing the forms of receipt approved by the Resident Commissioner, and it shall be their duty to pay and deliver to the Assistant Commissioner the amount of hut tax represented by the said receipt forms given by them as receipts, and to account for the remainder of the said receipt forms; provided that



an amount equal to 10% of the value of the tax so collected may be paid to the said Chiefs in consideration of services rendered in the collection thereof subject to the provisions of section eleven of this Proclamation.

10. Any Chief appointed to collect hut tax as aforesaid shall furnish to the Assistant Commissioner a complete list of the names of the persons liable for the payment of hut tax within the area for which he is appointed, and shall, on paying over any amount collected by him furnish to the Assistant Commissioner a list of the persons by whom the said amount has been paid.

11. Any Chief so appointed shall be responsible for the due and proper collection of the said tax within the area for which he is appointed, and in the event of the collection thereof being made in a careless or improper manner, it shall be lawful for the Resident Commissioner to reduce or withhold the remuneration allowed to such Chief.

12. It shall be lawful for the High Commissioner, by notice in the Gazette, to suspend for any period, in any portion of the said Protectorate, the operation of this Proclamation, should it appear expedient to him so to do, on account of general distress or famine or any other cause.

13. This Proclamation shall have force and take effect from the first day of April, 1909.

GOD SAVE THE KING.

- Given -



Given under my hand and seal at *Wellington*  
this *twenty fourth* day of *February* One thousand  
nine hundred and nine.



*Sellon*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*W. J. Hall*

Imperial Secretary.

PROCLAMATION.

By His Excellency the High Commissioner.

C. O.  
13898

WHEREAS under and by virtue of Section two (1) of the Swaziland Administration Proclamation 1907, the Sheriff's Proclamation 1902 of the Transvaal is a Statute in force mutatis mutandis in Swaziland;

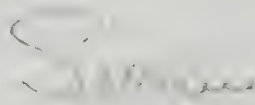
And whereas it is expedient to extend the said Proclamation as regards its application to Swaziland;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903, as amended by the Swaziland Order in Council 1906, I do hereby declare proclaim and make known as follows:-

1. Section five of the Sheriff's Proclamation 1902 of the Transvaal shall be and is hereby amended as regards its application to Swaziland by the deletion thereof of the following words:-  
"and shall cause a like notification to be published in the Gazette".
2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Wellington*  
this *thirtieth* day of *March* One thousand  
nine hundred and nine.



High Commissioner.

By Command of his Excellency  
the High Commissioner.



Imperial Secretary.



13803

P R O C L A M A T I O N

XXXXXXXXXXXX

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS doubts have arisen as to the effect of Proclamation No.1 of 1906 whereby Magistrates in Barotsiland-North Western Rhodesia were empowered in cases of contravention of the "Customs Proclamation (Barotsiland) 1905" of that territory to inflict greater penalties than those authorized to be inflicted by Magistrates under the provisions of Proclamation No. 6 of 1905.

AND WHEREAS it is expedient in order to remove such doubts to re-enact the provisions of the said Proclamation No.1 of 1906 in an amended form.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Proclamation No.1 of 1906 shall be and is hereby repealed.

2. Notwithstanding the provisions of Proclamation No.6 of 1905 it shall be lawful for any Magistrate having jurisdiction within Barotsiland-North Western Rhodesia to sentence any person convicted of a contravention of the provisions of any Customs law or of any regulations made thereunder now or hereafter in force in the said territory to a fine not exceeding one hundred pounds sterling and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months or to both such fine and such imprisonment.



3. In this Proclamation the term "Magistrate" shall have the same meaning as is assigned to that term in Proclamation No.6 of 1905.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

Given under my hand and Seal at *Pretoria*  
this *thirtieth* day of *March*. One thousand  
nine hundred and nine.



*[Signature]*  
High Commissioner.

By Command Of His Excellency  
The High Commissioner.

*[Signature]*  
Imperial Secretary.

3  
MAY 1909

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS an application has been made to me by the McCreedy Tins (Swaziland), Limited, hereinafter called the Company the registered owner of Mineral Concession No.30 dated 1st April 1887 for a right of passage of water over land subject to certain mineral and other Concessions;

AND WHEREAS no authority has as yet been constituted in Swaziland having power to grant such right;

AND WHEREAS the application has been investigated by the Swaziland Water Commission appointed by Notice No.12 of 1909 and objections thereto have been considered and the said Commission has recommended the grant of such application subject to certain conditions;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council, 1903, as amended by the Swaziland Order in Council, 1906, I do hereby declare proclaim and make known as follows:-

1. The Company is hereby empowered to construct a dam or weir across the Hlambanyati River at a point on Land Concession No.23 (indicated in a diagram signed by G. C. Murray, Surveyor, under date eighth day of April

1909 and deposited in the office of the Resident Commissioner at Mbabane) and thereby divert water from the said river and conduct the same by means of a furrow over portions of Land Concessions No.23 dated 16th August 1880 originally granted to H.Bester No.7 dated 21st May 1888 originally granted to P. R. Cloete No.54 dated 27th June 1887 originally granted to J. J. Potgieter No.70 M. dated 21st February 1889 originally granted to F. Eekersley, and Mineral Concessions No. 24 dated 10th December 1886 originally granted to A. P. Henderson and W. S. Shepstone, and No.45 dated 4th April 1887 originally granted to T. Shepstone, along the route approximately indicated in the said diagram to the property or concession of the Company.

2. The quantity of water to be taken from the said river shall not exceed the amount to which the Company is or may hereafter under any future legislation be entitled as the holder of a mineral concession having rights to the use of the water of the said river.

3. The water so conducted shall be used solely for the purpose of mining on the concession of the Company and if it is not so used this grant may be cancelled or taken from the Company. The water so used shall subject to the deductions caused by such use be returned to the said river within the boundaries of the Company's Concession.

4. The Company shall have the right to take earth sand gravel or stone from the land on which the furrow or attendant works are situated for the construction and maintenance of the said furrow or attendant works so far

as situated on such land.

5. The Company shall be bound to construct such bridges culverts flumes or other works as shall in the opinion of the Resident Commissioner be necessary for the convenience and protection of the persons having rights in the land over which the furrow passes and shall further be bound from time to time to make all such changes in the alignment fluming and levels of the furrow as shall in the opinion of the Resident Commissioner be necessary for the proper working of the minerals in the vicinity of the furrow. The Resident Commissioner shall from time to time give to the Company directions in writing specifying any works required to be carried out under this section.

6. The Company shall have the right to occupy so much of the land over which the furrow passes as may be necessary for or incidental to the construction and maintenance of the said furrow and attendant works and shall have the right of access to such land for the purpose of such construction and maintenance.

7. Any person holding any concession (whether a land or mineral concession) in respect of land traversed by the said furrow shall have the right to pass down the said furrow any water which he may be entitled to divert from the said river on payment of such proportion of the cost of constructing and maintaining the furrow or attendant works as may be agreed upon or failing agreement as may be fixed by arbitration in terms of the Arbitration Ordinance 1904 of the Transvaal provided that where an enlargement or alteration of the said furrow or attendant works is necessary in order to enable such right to be exercised



without detriment to the Company such enlargement or alteration shall first be made at the expense of the person desiring to exercise such right; and provided further that reasonable compensation shall be paid to the Company for any interference with its mining operations caused by the making of such enlargement or alteration and that proper security for such payment shall be given to the Company before any such enlargement or alteration is undertaken. The Resident Commissioner shall decide all questions relating to any such enlargement or alteration and any other matter as to which a dispute may arise under this section other than matters for which arbitration is provided.

8. Any person holding any concession (whether a land or mineral concession) in respect of land traversed by the said furrow who shall suffer damage by reason of the grant to the Company of the rights conferred by this Proclamation shall be entitled to compensation to be fixed by the Resident Commissioner. The amount of such compensation shall not exceed a sum equal to the average market value (as nearly as can be ascertained) of the land to be actually occupied by the said furrow or attendant works together with an annuity for actual inconvenience or loss that may be suffered by the exercise of the rights conferred by this grant or in lieu of such annuity an amount not exceeding twenty times the amount thereof. Where more than one person is entitled to compensation under this section in respect of any piece of land the Resident Commissioner shall apportion the amount of compensation payable among the persons entitled thereto.

9. The cost of any proceedings taken before the Resident Commissioner under section nayen or eight of this Proclamation shall be in the discretion of the Resident Commissioner and shall be taxed in the same way as the costs of proceedings in his Court and any Order made by the Resident Commissioner in such proceedings shall have the same effect as an Order of his Court provided however that there shall be no appeal from any such Order.

10. The said furrow and attendant works shall be constructed and maintained and from time to time altered (if required) as may be directed in writing by the Resident Commissioner or such other Officer as may be appointed for such purpose.

11. In the event of the Company failing to carry out any direction given under section five or ten of this Proclamation within such reasonable time as may be fixed by the Resident Commissioner it shall be liable to a fine of fifty pounds and to a further fine of five pounds for every day during which such default continues. Such fine shall be a debt due to the Swaziland Administration and may be recovered by action at the suit of the Government Secretary.

12. Nothing in this Proclamation contained shall relieve the Company of liability for any damage caused by the escape of water from the furrow or attendant works hereby authorized.

13. Any portion of the works authorised by this Proclamation constructed by the Company prior to the date of the taking effect thereof shall be deemed to have been


- constructed -

constructed under this Proclamation.

14. This Proclamation shall have force and effect  
from the 16<sup>th</sup> day of April, 1909.

G O D S A V E T H E K I N G !

GIVEN under my hand and seal at Pretoria  
this 15<sup>th</sup> day of April one thousand nine  
hundred and nine.



*S. M. M.*

High Commissioner.

By Command of His Excellency the High Commissioner.

*S. M. M.*

Imperial Secretary.

C.O.  
16334

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the provisions of the Swaziland Concessions Partition Proclamation 1907 in certain respects:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Section six of the Swaziland Concessions Partition Proclamation 1907 as amended by section two of Proclamation No.70 of 1908 shall be and is hereby further amended

- (1) by the deletion therefrom of the words 'selected or transferred' where such words occur for the second time in the said section;
- (2) by the deletion therefrom of paragraph (c).

2. All land the subject of a land concession whether demarcated for the use and occupation of natives under section four of the Swaziland Concessions Partition Proclamation 1907 or whether the same be freed from use

- and -



and occupation by natives shall be subject to any rights of way and outspan and to any rights to take water wood or reeds which have been awarded by the Special Commissioner in respect of such land in his Report dated the fifth day of December 1908 or which may hereafter be awarded by him in respect of such land provided always that in the case of any appeal to the High Commissioner against any award by the Special Commissioner of such rights the same shall take effect subject to and in accordance with the decision of the High Commissioner on such appeal. All such land shall further be subject to such rights of way and outspan as have been or may hereafter from time to time be by law established.

3. (1) Where any right of outspan exists or is established under the preceding section or under any other law in respect of land demarcated for the use and occupation of natives under section four of the Swaziland Concessions Partition Proclamation 1907 the High Commissioner may by notice in the Gazette define the boundaries of such outspan, and the land included within such boundaries shall be under the control of the High Commissioner.

(2) The Resident Commissioner may with the consent of the High Commissioner and on such terms as the High Commissioner may approve permit the establishment of a wayside store or hotel or the continuance of an existing store or hotel upon a portion of the site of any such outspan which has been defined under this section in cases where it shall appear that the existence of a store or hotel

on such outspan is for the public convenience.

4. Notwithstanding anything contained in the Swaziland Concessions Partition Proclamation 1907 the Resident Commissioner may grant to any person who on the 31st day of December 1908 was trading under a license on a site within the boundaries of any land demarcated for the use and occupation of natives under section four of the said Proclamation permission to continue to occupy such site for trading purposes after the date on which such demarcation takes effect for such period not exceeding five years and subject to such conditions as the Resident Commissioner may think fit, but at the end of such period the owner of such store shall unless the continuance thereof has been permitted under section three of this Proclamation be required to remove such store and the contents thereof from such site and in the event of his failing to do so the Resident Commissioner may cause the same to be removed and sold and the proceeds of such sale shall be applied as far as may be necessary to the payment of all expenses incurred and the balance shall be paid to the owner. No claim to compensation for loss incurred by such removal will be admitted.

5. The High Commissioner may from time to time by Notice in the Gazette exclude from any area of land demarcated for the use and occupation of natives under section four of the Swaziland Concessions Partition Proclamation 1907 such portion thereof as may be required for the purpose of or in connection with the construction of any railway dam reservoir or other public work subject to the payment of such compensation to any natives

- directly -


directly affected by such exclusion as may to him in his discretion seem just. Any portion of land so excluded shall from the date on which such exclusion is expressed to take effect be freed from any rights possessed by natives of Swaziland to the use and occupation thereof and shall be under the control of the High Commissioner.

6. Nothing in this Proclamation contained shall be taken to affect the operation of any laws for the time being in force with respect to the grant of trading and liquor licenses.

7. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any Proclamation amending the same and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my hand and seal at *Zeemut*  
this *17<sup>th</sup>* day of *April* one thousand nine  
hundred and nine.



*Sellman*

High Commissioner.

By Command of His Excellency the  
High Commissioner.

*CH. J. Smith*  
Imperial Secretary.

4 of 1909.

18803

5 JUN

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

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WHEREAS it is expedient to amend the provisions of the Large Game Preservation Proclamation 1904 (hereinafter referred to as "the said Proclamation") which regulates the killing of certain game in the Bechuanaland Protectorate;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. It shall be lawful for the High Commissioner from time to time by notice in the Gazette to vary for any one or more districts of the Bechuanaland Protectorate and for such number of seasons as he may think fit the period fixed in section three of the said Proclamation as the period of the close season.



2. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Bloemfontein  
this sixth day of May 1909.



*Sellars*

High Commissioner.

By Command of His Excellency the High Commissioner.

*A. M. Smith*

Imperial Secretary.

3020

# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS certain claims for compensation have arisen under sub-section (3) of section four of the Swaziland Concessions Partition Proclamation, 1907,

AND whereas it is expedient to facilitate the settlement of such claims by providing for the preparation by the Special Commissioner of schemes for granting compensation in land and for the confirmation of such schemes by the High Commissioner;

AND Whereas it is expedient otherwise to add to or to amend the provisions of the said Proclamation;

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 I do hereby declare proclaim and make known as follows:-

1. (1) The Special Commissioner may in any case where the holder or holders of a land concession are entitled to compensation under the provisions of sub-section (3) of section four of the Swaziland Concessions Partition Proclamation 1907 prepare a scheme (hereinafter called a "compensation scheme") for the compensation of such holder or holders in land and submit such scheme to the High Commissioner.

(2) The Special Commissioner shall in any compensation scheme describe the situation and boundaries and specify the approximate area of land proposed to be given in compensation and state the title on which it is proposed that such land should be held.

(3) Any compensation scheme may provide

(a) for the taking from any land concession area of such portion thereof as may be required for the purpose of obtaining land to be given in compensation; or

(b) for the taking of land from any land concession area for the purpose of obtaining land to be given in exchange and for granting such land to the holder of an adjoining land concession area in exchange for land taken from such area where exchanges of land appear to be expedient in the interest of holders of adjoining land concession areas.

2. The Special Commissioner shall take such steps as the High Commissioner may prescribe whether by means of public advertisement or otherwise for the purpose of communicating particulars of any compensation scheme to the holders of land concessions affected thereby and of ascertaining whether such holders assent thereto.

3. The High Commissioner may on being satisfied that the holder or holders of any land concession in respect of which compensation is due under the provisions of sub-section (3) of section four of the Swaziland Concessions Partition Proclamation 1907 have assented to the compensation scheme prepared in respect of such

concession either with or without modification confirm such scheme in such form as shall appear to give effect to the arrangement assented to by such holder or holders.

4. Where a land concession in respect of which compensation is due as aforesaid is held by two or more holders and the assent of all such holders to the compensation scheme prepared in respect of such concession cannot be obtained the High Commissioner may on being satisfied that one or more of such holders have assented to the scheme with or without modification and that all reasonable steps have been taken for the purpose of giving notice of the scheme to the other holders and that none of such other holders have within such reasonable time as may have been allowed for the purpose notified any objection to the scheme confirm such scheme in such form as shall appear to give effect to the arrangement assented to by one or more of such holders.

5. (1) The confirmation by the High Commissioner of any compensation scheme shall be notified by him by notice in the Gazette and upon the publication of such notice such scheme shall be deemed to become final and binding upon all parties affected thereby and all claims to compensation on the part of the holder or holders of the land concession in respect of which the scheme was prepared shall be deemed to be fully satisfied and all grants transfers and assignments of land provided for in such scheme or rendered necessary thereunder shall ipso facto take effect.



(2) The Registrar of Deeds shall after the publication of such notice proceed as soon as any necessary surveys have been completed to register all such grants and to pass all such transfers and cessions.

(3) No transfer duty stamp duty registration or other charges and no survey costs shall be payable in respect of any such grants transfers or cessions.

(4) Every holder of a land concession from the area of which any land has been taken under a compensation scheme which has been confirmed shall when called upon by the Registrar of Deeds by notice in the Gazette lodge with the Registrar the original title deed whereby he became the holder in whole or in part of such concession or where such original title deed has been lost or destroyed a duly certified copy issued to take the place thereof in order that the necessary endorsements may be made thereon.

6. (1) Where any compensation scheme provides for taking land from a land concession area for the purpose of obtaining land to be given in compensation such land shall be deemed to be land selected under subsection (4) of section four of the Swaziland Concessions Partition Proclamation 1907, provided that after the confirmation of the scheme no appeal shall lie to the High Commissioner against such selection.

(2) Notwithstanding anything contained in sections three or four of this Proclamation no compensation scheme

(a)

(a) which provides for the taking of land from any land concession area for the purpose mentioned in the preceding subsection in excess of such portion thereof as the Special Commissioner might be required by the High Commissioner to select under subsection (4) of section four of the Swaziland Concessions Partition Proclamation 1907 or

(b) which provides for the taking of land from any land concession area for the purpose of obtaining land to be given in exchange shall be confirmed by the High Commissioner unless he is satisfied that the assent of all the holders of such land concession to the taking of such land has been obtained.

7. Where before the taking effect of this Proclamation any such scheme of compensation as is described in section one of this Proclamation has been prepared by the Special Commissioner and any assent to such scheme by the holder or holders of the land concessions affected thereby has been given such scheme shall be deemed to have been prepared and such assent shall be deemed to have been given under this Proclamation.

8. Where under a compensation scheme land is given to the holder or holders of a land concession either in compensation or exchange for land held under such concession the title of such holder or holders to the land so given shall be subject to any mortgage bond registered against such concession in the same way as if the land so given were a part of the land held under such concession and the Registrar of Deeds shall make

the necessary endorsement on such mortgage bond and on the document of title to such land.

For the purpose of the provisions of this Proclamation relating to compensation schemes a person shall be deemed to be the holder of a land concession if he is registered as the holder thereof or if he is the executor or legal representative of a person so registered.

10. (1) Where it appears that any land concession area has been sub-divided between two or more owners the High Commissioner may instruct the Special Commissioner to deal with any subdivision of such area whether registered or not as if the same were the subject of a separate land concession and such sub-division shall thereafter for all the purposes of Part I of the Swaziland Concessions Partition Proclamation 1907 and any amendment thereof and of this Proclamation be deemed to be the subject of a separate land concession.

(2) Where the boundaries of any such sub-division are not sufficiently defined the High Commissioner may require the Special Commissioner or such other officer as he may appoint to enquire into and determine the boundaries of such sub-division, and the Special Commissioner or such other officer shall after giving reasonable notice of his intention whether by public advertisement or otherwise enquire into and determine such boundaries and furnish a description thereof to the Registrar of Deeds and the boundaries so determined shall be the boundaries of the sub-division. The Registrar of Deeds shall enter on the Register the description

of the boundaries of such sub-division furnished as aforesaid whether such sub-division has previously been registered or not and shall upon production of the owner's title deeds and any inter-dependent deeds entorse such description thereon.

No transfer duty shall be payable in respect of any transfer or cession effected under this section.

(3) Where the owner of any sub-division of a land concession area the boundaries of which have been determined under this section is entitled to receive compensation under the Swaziland Concessions Partition Proclamation 1907 in respect of such sub-division and the amount of such compensation falls to be determined by arbitration the arbitrator shall for the purpose of the arbitration unless the owner of such sub-division submits a diagram thereof framed in accordance with the description of the boundaries furnished under this section and approved by the Surveyor General accept as correct an estimate of the area of land included in such sub-division prepared on behalf of the Swaziland Administration and signed by the Government Secretary of Swaziland.

11. Sub-section (4) of section four of the Swaziland Concessions Partition Proclamation 1907 shall be and is hereby amended by the addition at the end thereof of the following words:-

"the High Commissioner may in substitution for any land which might be taken from a land concession area under this sub-section accept from



the concessionaire payment of such sum as may be considered equivalent to the value of such land".

12. Section five of the Swaziland Concessions Partition Proclamation 1907 shall be and is hereby amended by the addition at the end thereof of the following words:- "Application may be made under this section for the expropriation of a part only of any such portion of land as is in this section mentioned."

13. Notwithstanding anything contained in section six of the Swaziland Concessions Partition Proclamation 1907 where any right is conferred upon a concessionaire by a land concession to graze stock upon land the demarcation of which takes effect in accordance with Proclamation No. 70 of 1908 on the first day of July 1909 such right shall be deemed to continue of full force and effect until the thirtieth day of September 1909.

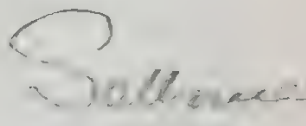
14. The Chief Justice of the Transvaal may appoint a single arbitrator to determine all questions of compensation which are under the provisions of the Swaziland Concessions Partition Proclamation 1907 to be determined by an arbitrator appointed by him.

If any person appointed as such arbitrator dies or *either generally or in respect of any particular arbitration* becomes incapable of acting the said Chief Justice may appoint some other person as arbitrator in his place, *either generally or in respect of the particular arbitration in regard to which the incapacity to act may have arisen.*

15. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any Proclamation amending the same and shall have effect from the date of its publication in the Gazette.

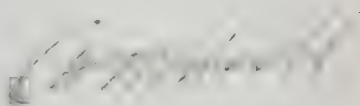
God Save The King

Given under my hand and seal at Johannesburg  
this twelfth day of June One thousand nine hundred  
and nine.



High Commissioner.

By Command of His Excellency  
The High Commissioner.



Imperial Secretary.



P R O C L A M A T I O N

By His Excellency the High Commissioner

WHEREAS it is expedient to extend the time allowed by section two of Proclamation No.41 of 1908 for the removal of minerals trees crops buildings fencing or other structures under the provisions of the said section and otherwise to amend the said Proclamation.

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Section two of Proclamation No.41 of 1908 (hereinafter referred to as the said Proclamation) shall be and is hereby amended by the deletion therefrom of the words "thirtieth day of June 1909" and the substitution therefor of the words "thirtieth day of September 1909".

2. The expression "holder under a concession" as used in the said Proclamation shall be deemed to

include any lessee holding a lease granted by the holder of a concession and any sub-lessee holding under such lessee.

3. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect as from the date of the taking effect of the said Proclamation.

God Save The King!

Given under my hand and seal at Cape Town the twenty-ninth day of June in the year One thousand Nine hundred and Nine.



High Commissioner

By Command of His Excellency

The High Commissioner.

Imperial Secretary.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it was provided by section four of Proclamation No. 63 of 1908 that any order of confirmation of a concession made by the High Commissioner under the said Proclamation should be lodged with the Registrar of Deeds within seven months after the date of the taking effect of the said Proclamation:

AND WHEREAS it is expedient to allow a further period for the lodging of certain orders of confirmation which were not lodged within the said period of seven months:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Notwithstanding anything contained in section four of Proclamation No. 63 of 1908 it shall be lawful to lodge with the Registrar of Deeds at any time within two months after the date of the taking effect of this Proclamation orders of confirmation made by the High Commissioner in respect of the concessions mentioned in the Schedule to this Proclamation and any such order so lodged shall be deemed to have been lodged under the said section, and no

- cancellation -

cancellation of any rights granted by any concession mentioned in the said Schedule shall be deemed to have been lawfully made under the said section unless made after the expiration of the said period of two months.

2. This Proclamation shall be read as one with Proclamation No. 63 of 1908 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G

GIVEN under my Hand and Seal at Cape Town  
this *twentieth* day of *July* one thousand  
nine hundred and nine.



*Walter Helyar*

High Commissioner.

By Command of His Excellency the High Commissioner.

*(H Rodwell)*

Imperial Secretary.

702  
100

S C H E D U L E.

Portion of Mineral Concession No.32 known as the  
Carter's Ruby Creek Concession.

Land Concession No.55 originally granted  
to J. C. Wessels on the 25th February 1886.

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PROCLAMATION

By His Excellency the High Commissioner.

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WHEREAS it is expedient to grant to the natives of Swaziland rights in respect of the sites of the graves of certain Chiefs or the relations of Chiefs:

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906, I do hereby declare proclaim and make known as follows:

1. It shall be lawful for the High Commissioner at any time within six months after the taking effect of this Proclamation by notice in the Gazette to authorise the enclosure by such natives as may be referred to in such notice of pieces of land in Swaziland in the neighbourhood of the graves of Chiefs or the relations of Chiefs: provided that each such piece of land shall be as near as may be rectangular in shape and that no side thereof shall exceed two hundred yards in length.
2. Such notice shall authorise the natives therein referred to or other natives acting under their orders at any time within one year from the date of publication thereof to have access to the piece of land therein described for the purpose of erecting a fence enclosing the same.
3. If within one year from the date of publication of such notice the natives therein referred to shall



have caused to be erected round such piece of land a substantial fence to the satisfaction of the Resident Commissioner a further notice shall be published in the Gazette declaring the piece of land enclosed by such fence to be a grave site and such site shall thereafter as long as such fence is maintained in proper order to the satisfaction of the Resident Commissioner be deemed to be land set apart for the sole and exclusive use and occupation of natives of Swaziland under section four of the Swaziland Concessions Partition Proclamation, 1907.

4. Natives of Swaziland shall have such right of way over neighbouring land as may be reasonably necessary for the purpose of obtaining access to any grave site as long as their rights in respect of such site continue in force and such right of way shall be defined by the Resident Commissioner if he shall consider such definition necessary.

5. If the fence round any grave site is not maintained in proper order to the satisfaction of the Resident Commissioner the Resident Commissioner shall report such fact to the High Commissioner, and the High Commissioner may upon receiving such report declare by notice in the Gazette that the rights of the natives to such grave site granted under this Proclamation shall cease and determine whereupon such rights shall determine accordingly, and any rights in respect of such site which belonged to any person at the date when such site was declared to be a grave site shall revert to such person or to his successor in title.

6. No compensation shall be payable to any person in respect of rights held by such person to land declared to be a grave site under this Proclamation and notwithstanding anything contained in section three of - 6.11.3 -

this Proclamation such land shall not be deemed to be demarcated land for the purpose of the determination of compensation payable under subsection (3) of section four of the Swaziland Concessions Partition Proclamation 1907.

7. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

GIVEN under my hand and seal at *Cape Town*  
this *thirty first* day of *July* One thousand Nine  
hundred and Nine.



*Arthur Henry Bullock*

High Commissioner.

By Command of His Excellency

The High Commissioner.

*(H. B. ...)*

Imperial Secretary

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS the Native Tax Ordinance 1902 of the Transvaal (hereinafter referred to as "the principal law") as amended by Proclamation No.10 (Swaziland) 1906 is in force in Swaziland:

AND WHEREAS it is desirable further to amend the provisions of the principal law as amended by the said Proclamation:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. (1) Any person duly authorized to collect the tax payable under the principal law as amended by Proclamation No.10 (Swaziland) 1906, and any member of a police force lawfully established in Swaziland may demand from any adult male native the production of -

- (a) his tax receipt or any document serving the purpose of such receipt; or
- (b) a document granting him an extension of time for payment of the said tax; or

- (c) -

(c) a document showing his exemption from liability to pay the said tax:

and shall inspect the same if produced and return it to the person producing it.

(2) If default is made by an adult male native in complying with the requirements of this section he shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(3) Any person who, having under this section obtained the production of a receipt or document therein mentioned, fails to return it to the person producing it, shall, unless his retention thereof is authorised by law, be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds, or in default of payment, to imprisonment not exceeding three months, or to such imprisonment without the option of a fine.

(4) Any person who, without being authorised under this section to demand such receipt or document, shall obtain it, with intent to deprive an adult male native of its use, shall be guilty of an offence, and liable, on conviction, to the penalties prescribed by law for fraud.

(5) Any person in possession of any such receipt or document, whether lawfully or unlawfully, who permits the same to come into the possession of another person, with intent that it shall be used by any person other than the person in respect of whom it was issued as a receipt or as a document for extending



time of payment, or as a document exempting from payment, and any person who being in possession of such receipt or document belonging to another person, represents the same as his own, shall be guilty of an offence, and liable, on conviction, to the penalties mentioned in sub-section (4).

2. If a person reasonably suspected of liability to pay the tax payable under the principal law as amended by Proclamation No.10 (Swaziland) 1906 -

- (a) fails to pay within the time required; or
- (b) fails to produce any such receipt or document as is described in sub-section (1) of section one upon such demand as is therein mentioned, he may be arrested without warrant, by any person entitled to make such demand, and shall thereupon be brought before a Court having jurisdiction to be dealt with as is by law provided.

3. Every adult male aboriginal native who though not domiciled in Swaziland has resided therein for a continuous period of twelve months immediately preceding the first day of January in the year 1910 or any subsequent year shall pay in respect of such year the tax payable under the principal law as amended by the said Proclamation, and shall in respect of such payment be subject to all the provisions of the principal law and of any law amending the same and of any regulations made thereunder: provided that any native whose permanent residence is outside Swaziland and who produces proof that he has discharged all liability to pay the current taxes imposed under the law of the Colony or Territory of his permanent

- residence -

residence shall be exempted from payment of the tax payable under the principal law as amended.

4. This Proclamation shall be read as one with the principal law and Proclamation No. 10 (Swaziland) 1906 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *twenty ninth* day of *July* one thousand  
nine hundred and nine.



*Walter Hely Hutchinson*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. M. ...*

Imperial Secretary.

Ref. of 1-0-0

neither sanctioned  
nor disallowed

(Repealed 7/10/14) 300

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to preserve the indigenous forest timber growing on Crown lands in Swaziland and on land set apart for the sole and exclusive use and occupation of natives of Swaziland under the Swaziland Concessions Partition Proclamation, 1907:

NOW THEREFORE under and by virtue of the powers, authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903, as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Law No.15 of 1880 of the Transvaal shall be and is hereby repealed as regards its application to Swaziland.

2. In this Proclamation unless inconsistent with the context,

"native area" shall mean any portion of Swaziland set apart for the sole and exclusive use and occupation of natives in Swaziland, under the provisions of the Swaziland Concessions Partition Proclamation 1907;

"indigenous timber" shall mean forest trees or the saplings thereof, which have not been planted by human agency, and such trees and bushes as have been  
- planted -

planted under direction of the Resident Commissioner on native areas or land the property of the Crown;

"brushwood" shall mean any bushes underwood or similar growths which are not included in the term indigenous timber;

"mineral concession" shall mean a concession giving a right to minerals or to precious stones and precious minerals or metals on any area granted by or on behalf of the King or Paramount Chief of Swaziland, and confirmed either by the Chief Court of Swaziland, referred to in section thirteen (1) of Proclamation No. 3 (Swaziland) 1904, or by the High Commissioner in terms of Proclamation No. 63 (Swaziland) of 1908.

3. No person shall cut down, destroy, remove, sell or purchase indigenous timber growing on native areas or on land the property of the Crown without the permission of the Resident Commissioner, or of an Assistant Commissioner, or other person authorized by the Resident Commissioner to grant such permission. Provided:-

(a) that the owner of a mineral concession of prior date on Crown land having the right under such concession to the use of timber for mining purposes, may cut and use for such purposes indigenous timber which has not been planted under the direction of the Resident Commissioner; and

(b) <sup>that</sup> nothing in this section shall prevent natives living on native areas from cutting brushwood or collecting decayed or dead wood on such areas for use as fuel.



4. No person shall cultivate any Crown land or land in native areas on which indigenous timber is growing or within one hundred yards thereof for the purpose of growing beeches, kaffir corn or other similar crops without the permission of the Resident Commissioner or of an Assistant Commissioner, or other person authorized by the Resident Commissioner to grant such permission.

5. Every person who shall maliciously or by wilful neglect or recklessly set fire to or kindle any fire, which, by spreading shall set fire to any indigenous timber or brushwood, on Crown lands or on native areas shall be deemed to be guilty of a contravention of the provisions of this Proclamation.

6. Any person contravening any provision of this Proclamation, and any person who shall give to any other person — instructions calculated to lead to a contravention of any such provision shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds, and in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months or to such imprisonment alone, or to both such fine and imprisonment.

7. In any prosecution for contravention of any of the provisions of this Proclamation, the burden of proving that such permission as is mentioned in sections three and four has been obtained shall be upon the person charged.

8. This Proclamation shall be cited for all purposes as the Swaziland Forests Preservation Proclamation 1909, and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at Cape Town  
this *Second* day of *August*, one thousand  
nine hundred and Nine.



*Walter H. Dickinson*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*CH Rodwell*

Imperial Secretary.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to make provision with regard to the taking effect of certain decisions and awards of the Special Commissioner appointed under the Swaziland Concessions Partition Proclamation 1907 contained in reports dated the fifth day of December 1908 and the twenty-third day of July 1909 (hereinafter referred to as 'the said reports') and with regard to appeals from such decisions and awards:

AND WHEREAS it is expedient further to amend the Swaziland Concessions Partition Proclamation 1907 and also to amend Proclamation No.15 of 1905:

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 I do hereby declare proclaim and make known as follows:-

1. (1) Where the Special Commissioner has in either of the said reports made any recommendation as to the selection of land such recommendation shall,  
- whether -

whether made subject to any condition or not, be deemed to be a selection of land duly made by the Special Commissioner under section four of the Swaziland Concessions Partition Proclamation 1907.

- (2) The High Commissioner may by notice in the Gazette declare that any selection of land made by the Special Commissioner under the said section four shall take effect with or without modification on a date fixed in such notice, and no such selection shall take effect save in accordance with such notice and upon the date fixed thereby.
- (3) Upon the taking effect in accordance with such notice of any selection of land made by the Special Commissioner as aforesaid the title to the selected land held by the concessionaire from whose land concession area the same has been selected shall ipso facto vest in the High Commissioner free from any lease mortgage or encumbrance made or created by the concessionaire or any previous holder of the concession and the Registrar of Deeds shall proceed as soon as any necessary surveys have been completed to pass transfer of such land to the High Commissioner.
- (4) Every concessionaire from whose land concession area any selection of land has been made which has taken effect as by this section provided shall when called upon by the Registrar of Deeds by notice in the Gazette lodge with the Registrar the original title deed whereby he became the holder in whole or



in part of such concession or where such original title deed has been lost or destroyed a duly certified copy issued to take the place thereof in order that the necessary endorsements may be made thereon.

2. All awards of rights of way or outspan or of rights to take water wood or reeds made by the Special Commissioner in either of the said reports under section six (c) of the Swaziland Concessions Partition Proclamation 1907 or under section two of Proclamation No.13 of 1909 shall subject to any modification made therein by the High Commissioner take effect on the first day of January 1910.

3. No appeal under section nine of the Swaziland Concessions Partition Proclamation 1907 against any selection of land made by the Special Commissioner under section four of the said Proclamation or against any such award as is mentioned in the last preceding section of this Proclamation shall be entertained by the High Commissioner unless written notice of such appeal shall have been lodged in the office of the Imperial Secretary, Johannesburg, on or before the first day of November 1909.

4. Sub-section (1) of section four of the Swaziland Concessions Partition Proclamation 1907 shall be and is hereby amended by the deletion therefrom of all words after the word "framed" and the insertion in place thereof of the following words:-

"The costs of all surveys made and all diagrams framed for the purpose of this sub-section shall in the first instance be paid by the Swaziland Administration.

The Special Commissioner shall prepare a scheme for

- allocating -

allocating such costs between the Swaziland Administration and all holders of land concessions or of freehold title to land in Swaziland other than the Swaziland Administration and for determining the amount of such costs chargeable against each such holder. Such scheme shall be submitted to the High Commissioner who may approve the same with or without modification and the amount of such costs chargeable under such scheme as approved against any holder of a land concession or of freehold title to land other than the Swaziland Administration shall be repaid by such holder to the Swaziland Administration. The provisions of section sixteen of the principal law shall mutatis mutandis apply to the repayment of such costs with interest thereon by instalments".

5. Section ten of Proclamation No.15 of 1904 shall be and is hereby amended by the addition thereto of the following sub-section:-

(4) The cost of determining the boundaries of the subdivisions of any land concession area under subsection (2) of this section shall be ascertained by the Special Commissioner or other officer who determines such boundaries and allocated by such officer between the owners of such subdivisions. The amount so allocated against each such owner shall be paid by him to the Swaziland Administration.

The provisions of section sixteen of the Swaziland Administration Proclamation 1904 shall mutatis mutandis apply to the payment of such costs

with interest thereon by instalments provided that no transfer or cession required to be made under sub-section (2) of this section shall be affected by the provisions of sub-section (2) of the said section ~~sixteen~~.

6. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any Proclamation amending the same and shall have effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Cape Town this nineteenth day of August, one thousand nine hundred and nine.



*Robert Henry Theobald*

High Commissioner.

By Command of His Excellency the High Commissioner.

*Robert Henry Theobald*

Imperial Secretary.

PROCLAMATION

By His Excellency the High Commissioner.

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WHEREAS it is desirable to regulate the removal of cattle from place to place within the Bechuanaland Protectorate:-

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The word "cattle" in this Proclamation shall mean any bull, ox, cow, heifer or calf.
2. No person shall remove or cause or allow to be removed any cattle from any place to any other place within the Bechuanaland Protectorate without the permission in writing of an Assistant Commissioner or Magistrate or of some person authorised by an Assistant Commissioner or Magistrate to give such permission.
3. Any Assistant Commissioner or Magistrate may order the isolation, at the owners expense, for a period of eight weeks or such longer period as the Government Veterinary Officer may in writing determine of any cattle removed without permission from



any place to any other place. Any person in charge of such cattle who fails to comply with such order and any person who hinders or interferes with the carrying out of any such order shall be deemed to contravene the provisions of this Proclamation.

4. Any person contravening the provisions of this Proclamation shall on conviction be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

5. It shall be lawful for the Resident Commissioner from time to time by Notice published in such manner as he may think fit to declare that the removal of cattle within certain areas or between certain places during certain periods may be effected without the permission provided for in this Proclamation: and by a further notice published in like manner to cancel or amend any such notice.

6. No cattle shall be deemed to be removed within the meaning of this Proclamation merely by reason that such cattle shall be found moving from place to place within the limits of any land to the occupation whereof or to the use whereof for the purposes of grazing cattle or allowing them to drink water the person owning or interested in such cattle is entitled.

7. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town  
this *twentythird* day of *August*, One thousand  
Nine hundred and Nine.



*Victor Hugo Kitchener*

High Commissioner.

Command of His Excellency  
the High Commissioner.

*W. H. Kitchener*

Imperial Secretary.

570

1855

1855

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Lands:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order in Council 1906 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order-in-Council 1908 I do hereby declare, proclaim and make known as follows:-

The area of land in Swaziland described in the schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as Lot No.1, Mhobane District, Swaziland; provided always that the proclamation of the said area as Crown Lands shall not

- effect -

affect any lease servitude or other right subsisting in  
respect of the said area which is registered at the date  
of such publication and is not vested in the Crown.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at Cape Town  
this twenty-sixth day of August one thousand nine  
hundred and nine.



*Walter Hely-Hutchinson*

High Commissioner.

By Command of His Excellency the High Commissioner.

*W. H. H.*

Imperial Secretary.



SCHEDULE.

The area known as Lot No. 1, District Mbabane,  
Swaziland, according to the approved diagram S. G.  
No. S 2/09 in extent 1967 Morgen 277 square roods,  
comprising the whole of Land Concession No. 1, and  
a portion of Land Concession No. 4.

C.O.  
1855

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the establishment of a Township on certain land proclaimed to be Crown Land by Proclamation No. 23 of 1909 and known as Lot No. 1, Mbabane District, Swaziland and to make provision for the disposal of lots within the said Township and on the said Crown Land and for other matters in connection therewith:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 I do hereby declare proclaim and make known as follows:-

1. The laws and regulations mentioned in the schedule annexed hereto and so much of any other law as is repugnant to or inconsistent with the provisions of this Proclamation shall have no application to any portion of the land proclaimed to be Crown Land by Proclamation No. 23 of 1909 and known as Lot No. 1, Mbabane District, Swaziland.

2. A portion of the said Crown Land in extent 199 morgen 168 square roods according to approved diagram S.C. No. A 1588/09 dated November 1906 framed by Surveyor W. R. Vanham duplicate originals whereof are filed in the

- office -

office of the Surveyor General for Swaziland shall be and is hereby proclaimed to be a Township under the name of Mbabane.

3. The High Commissioner may subject to the reservation of the rights to minerals mineral products and precious stones dispose of lots within the said Township or of any lot situate on the said Crown Land but not included within the said Township on such terms and conditions as he may think fit.

4. Immediately on the taking effect of this Proclamation the Registrar of Deeds shall open a special register to be known as the "Mbabane Township Register" wherein all grants and transfers of lots and other divisions of land as shewn on the general plan of the said Township framed by Surveyor Lanham and approved by the Surveyor General No.A 1588/09 dated November, 1906 duplicate originals whereof are filed in the office of the Surveyor General and Registrar of Deeds for Swaziland shall be registered.

5. Whenever it is sought to grant transfer or lease a lot in the said Township it shall not be necessary to annex to the deed of grant transfer or lease a diagram of such lot, but as soon as it is first sought to grant transfer or lease a portion of any such lot there shall in addition to a diagram of that portion annexed to the grant transfer or lease of that portion be filed in the Deeds Office a diagram of the whole lot. The last named diagram may be a copy, certified to by the Surveyor General, of a portion of the general plan of the said Township.

6. If payment of any annual quit-rent shall be a condition of the grant of any lot within the said Township or of any lot situate on the said Crown Land but not included in the said Township such quit-rent shall be payable in advance on the first day of January in every year provided that a proportionate part of such quit-rent shall be payable on the date when the grant is issued in respect of the unexpired portion of the year then current. Where the annual quit-rent payable in respect of any lot remains unpaid for more than two years after the same becomes due and payable the Resident Commissioner may give notice in the Gazette that unless all sums due for quit-rent in respect of such lot together with the cost of such notice are paid within three months from the date of publication thereof such lot will be sold by public auction and such notice shall also be served personally on the registered owner of the lot or posted to him by registered letter addressed to him at his last known address. If on the expiration of such period of three months all sums due for quit-rent in respect of such lot and for the cost of the notice have not been paid the lot may be sold by public auction without any further notice to the owner thereof but a tender of all sums due as aforesaid at any time before such sale shall be accepted if all costs incurred up to the date of the tender shall also be paid. All sums due as aforesaid and the costs of sale shall be paid out of the proceeds of the sale and the balance, if any, shall be paid to the registered owner of the lot.

7. (1) No lot in the said Township shall be subdivided without the permission in writing of the

- Resident -



Resident Commissioner.

(2) In the case of the sub-division of any lot within the said Township or of any lot situate on the said Crown Land but not included in the said Township which is subject to the payment of an annual quit-rent each of the sub-divisions of such lot shall be subject to the payment of an annual quit-rent in accordance with the provisions of this Proclamation of such amount as may be fixed by the Resident Commissioner provided that the quit-rent payable in respect of any such sub-division shall not exceed the quit-rent originally payable in respect of the whole lot.

8. Notwithstanding anything contained in sub-section (a) of section ~~six~~ of the Swaziland Concessions Partition Proclamation 1907 as amended by section ~~two~~ of Proclamation No. 70 of 1908 and section ~~two~~ of Proclamation No. 13 of 1909 the area of the Township as hereby proclaimed shall be and is hereby freed from any right of any of the Natives of Swaziland to reside thereon or to occupy the same or any part thereof.

9. The High Commissioner may from time to time by notice in the Gazette make alter and revoke regulations prescribing the conditions on which lots in Wbabane Township and lots situate on the said Crown Land but not included within the said Township may be disposed of and the form of grant to be issued in respect of such lots, and generally for the better carrying out of the objects and purposes of this Proclamation.

10. This Proclamation may be cited for all purposes as the Wbabane Township Proclamation 1909 and shall have

- force -

force and take effect from the date of its publication  
in the Gazette.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at Cape Town  
this twenty-sixth day of August one thousand nine  
hundred and nine.



*Herbert Henry Kitchener*

High Commissioner.

By Command of His Excellency the High Commissioner.

*Herbert Henry Kitchener*

Imperial Secretary.

S C H E D U L E.

Volksraad Resolution of 7th June 1876 of the  
Transvaal.

Law 4/1899 of the Transvaal.

Crown Lands Disposal Ordinance No.57/1903 of the  
Transvaal and Regulations made thereunder.

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No. 17 of 1909.

C. O.

34128

REC  
16 OCT 09

# PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS a trypanosomal disease amongst cattle is alleged to be in existence in the Territory of Barotsiland-North-Western Rhodesia and it is therefore expedient to take measures for preventing the spread of the said disease to the Bechuanaland Protectorate.

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. It shall not be lawful, without the written permission of the Resident Commissioner or of some person duly authorised by the Resident Commissioner to introduce or to cause or allow to be introduced into any part of the Bechuanaland Protectorate, any horned cattle, sheep or goats from the Territory of Barotsiland-North-Western Rhodesia.

2. Any person contravening the provisions of this Proclamation shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one



hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid.

3. All horned cattle sheep or goats which may enter the Bechuanaland Protectorate in contravention of this Proclamation shall be liable to be confiscated and destroyed.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

Given under my Hand and Seal at *Cape Town*  
this *twentieth* day of *September* One thousand  
nine hundred and nine.



*Walter H. H. H. H.*

HIGH COMMISSIONER.

By Command of His Excellency the  
High Commissioner.

*(H. H. H. H.)*

Imperial Secretary.

No. 61 of 1909.

50734  
1909

PROCLAMATION.

By His Excellency the High Commissioner.

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WHEREAS it is expedient to make further provision for the administration of justice within the Territory included within the limits of the Barotsiland-North Western Rhodesia Order in Council 1899 (hereinafter referred to as the Territory):

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. In this Proclamation unless the context otherwise requires the term "Magistrate" shall include "Acting Magistrate", "Assistant Magistrate" and "Acting Assistant Magistrate".
2. The Administrator may from time to time determine the number of Magistrates' Courts required in the Territory and may assign to each such Court the local limits of the district within which it is to have jurisdiction.
3. The Administrator may assign to any district any Magistrate who has been duly appointed as a Magistrate by the High Commissioner or transfer any

- Magistrate -

Magistrate from one district to another district.

4. (i) In the case of illness absence or other emergency the Administrator may appoint a competent person to act temporarily as Magistrate in any district for any purpose or purposes.

(ii) The Administrator shall forthwith report every such appointment of a person to act as Magistrate to the High Commissioner who may disapprove any such appointment and shall thereupon notify the Administrator of such disapproval; such notification may be made by telegraph.

(iii) The Administrator on receiving notification from the High Commissioner of the disapproval of any appointment of a person to act as Magistrate shall forthwith inform the person that he is no longer authorised to act as Magistrate and the person shall on receiving such information from the Administrator cease to act as Magistrate; provided always that such disapproval shall not affect the validity of any acts done by the person while acting as Magistrate before he has been informed by the Administrator of such disapproval.

5. Notwithstanding anything in section twenty-two of Proclamation No.6 of 1905 contained when it shall be made to appear to the Administrator that any civil or criminal cause or matter though properly cognisable in one district can yet with greater convenience be heard and determined in another district, the Administrator may transfer such cause or matter to such other district and such cause or matter shall

when so transferred be heard and determined in such Court or Courts of the district to which it is so transferred as would have had cognisance thereof had the cause or matter been originally cognisable in such district; provided always that it shall be lawful for any person affected by such transfer to make application to the Administrator's Court or the High Court of North Western Rhodesia for an order setting aside such transfer or for an order transferring such cause or matter to some district other than that to which it has been transferred and the Administrator's Court or the said High Court shall on such application make such order as under the circumstances may be just and reasonable.

6. This Proclamation may be cited for all purposes as the Administration of Justice Proclamation 1909 and shall have force and take effect as from the *first* day of *January* 1909.

GOD SAVE THE KING.

- Given -



Given under my Hand and Seal at *Kimberley*  
this *twenty second* day of *September* One thousand nine  
hundred and nine.



*Sellars*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*(H. Rodwell)*

Imperial Secretary.

PROCLAMATION

By His Excellency the High Commissioner.

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WHEREAS it is expedient to amend certain errors in the Licenses and Stamp Duties Proclamation, 1908 (No. 34 of 1908) hereinafter referred to as "the principal law" whereby provision is made for the raising of revenue by the imposition of certain stamp duties and licenses within the Territory included within the limits of the Bechuanaland-North Western Rhodesia Order in Council 1899;

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. The Second Schedule to the principal law as amended by Proclamation No. 64 of 1908 shall be and is hereby further amended as follows:-

(1) Under the heading "Assigned Estate" by deleting the words "and see Sections thirty-six and thirty-seven" and substituting therefor "and see Sections thirty-five and thirty-six".

(2) Under the heading "Hearing Fee" where such heading first occurs by deleting the words "(a) Same as the fee on the Summons unless (b) if the defendant admits the claim in Court, or by in all cases by default - Fee reduced one half" and

- substituting -

substituting therefor "Same as the Fee on the summons unless the defendant either (a) admits the claim in Court, or (b) makes default, in which cases Fee reduced one-half".

(3) Under the heading "Appellate" by deleting the words "on filing every appeal from Magistrate's Court interlocutory or final" and substituting therefor "On filing every appeal from Magistrate's Court interlocutory or final".

(4) Under the heading "Powers of Attorney" by inserting after the words "Every other power of attorney (except proxies)" the words "And see Section thirty-eight".

(5) Under the heading "Promissory Notes" by deleting the words "also Section thirty-nine".

(6) Under the heading "Proxies" by deleting the words "And see Section thirty-nine" and substituting therefor "And see Section thirty-eight".

(7) Under the heading "Receipts" by deleting the words "And see Sections forty, forty-one and forty-two" and substituting therefor "And see Sections thirty-nine, forty and forty-one".

2. This Proclamation shall be read as one with the principal law and shall have force and take effect as from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Kimberley*  
this *10th* day of *April* One thousand  
nine hundred and nine.



*Sellon*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*W. R. Marshall*

Imperial Secretary.



28 of 1909

SANGHIA

30428

DEC 4 1909

# PROCLAMATION

By His Excellency The High Commissioner

WHEREAS it is expedient to establish and define the boundary of a Native Reserve within the territory of the Bechuanaland Protectorate for the Bamalete Tribe:

NOW therefore under and by virtue of the powers in me vested, I do hereby declare proclaim and make known as follows:-

1. The boundary of the Bamalete Native Reserve of which Tribe Baitlotle is the Acting Chief during the minority of Seboko is as follows:-

Commencing from the South Eastern beacon of the Farm Crocodile Pools which is on the Transvaal boundary the boundary runs along the Southern boundary of the said farm to a beacon threequarters of a mile South East of the Eastern entrance to the gorge Pata Levika, being the Southern most point of the Bakwena Reserve; thence in a southerly direction to a beacon on Kika Hill, thence to a beacon on Noka (or Noga) Hill; thence along the Northern boundary of the Lobatsi Block as defined in the Schedule to the High Commissioner's Proclamation No.4 of 1905; thence along the Transvaal boundary to the aforesaid beacon of the farm Crocodile Pools.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

- Given -

Given under my hand and seal at *Liverpool*  
this *third* day of *November* One thousand  
nine hundred and nine.



*Sellon*

HIGH COMMISSIONER.

By Command of His Excellency  
The High Commissioner.

*(H. B. Smith)*

Imperial Secretary.

29 of 1909

PROCLAMATION

35422  
REC  
4 DEC 09

By His Excellency the High Commissioner.

WHEREAS it is expedient to correct an error in the Schedule to Proclamation No.23 of 1909 by which a certain portion of land in Swaziland was proclaimed to be Crown Lands:

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council 1908 I do hereby declare proclaim and make known as follows:-

1. The Schedule to Proclamation No.23 of 1909 shall be and is hereby amended by the deletion therefrom of the words and figures "1967 Morgen, 277 square roods" and the substitution therefor of "1960 morgen 43 square roods".

2. This Proclamation shall take effect from the date of the taking effect of Proclamation No. 23 of 1909.

GOD SAVE THE KING

- Given -

Given under my hand and seal at *Reulawayo*  
this *4th* day of *Nov.* One thousand  
nine hundred and nine.



*Sellman*

HIGH COMMISSIONER.

By Command of His Excellency  
The High Commissioner.

*(H) Bodwell*

Imperial Secretary.



41737

PROCLAMATION

1903  
27 FEB 03

BY HIS EXCELLENCY THE HIGH COMMISSIONER

**CAUTION**

WHEREAS it is provided by section fortyeight of the Southern Rhodesia Order-in-Council 1898 that the Military Police forces of Southern Rhodesia shall be and remain under the direct control of the High Commissioner:

AND WHEREAS by section three of the said Order it is declared that the term "Military Police forces" does not include any Civil Police forces to which the High Commissioner may by proclamation declare that the said Order shall not extend:

AND WHEREAS it is desirable that the said Order should not extend to the Civil Police forces styled the British South Africa Police:

I, the High Commissioner, under and by virtue of the powers in me vested do hereby declare proclaim and make known as follows:-

1. That portion of the Civil Police forces of Southern Rhodesia known as the British South Africa Police shall from the date of the taking effect of this Proclamation be exempted from the provisions of the Southern Rhodesia Order-in-Council 1898 and shall be designated the British South Africa Police.

2. All members of the British South Africa Police who do not consent in writing to serve under the provisions of the Police Ordinance 1903 as amended by the Police

Ordinance

Ordinance Amendment Ordinance 1908 and do not otherwise become subject to the provisions of the said Ordinance as amended shall remain subject to the provisions of all laws and regulations controlling the said force at the date of the taking effect of this Proclamation.

3. Sections two three and four of the High Commissioner's Proclamation No. 11 of 1904 shall be and are hereby repealed.

4. This Proclamation shall have force and effect on the first day of December 1909.

GOD SAVE THE KING.

Given under my hand and seal at Johannesburg this twenty-fourth day of ~~December~~ <sup>November</sup> one thousand nine hundred and nine.



*S. J. ...*  
High Commissioner.

BY *...* OF HIS DESPATCH BY THE HIGH COMMISSIONER.

*...*  
Imperial Secretary.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 32 of 1908 entitled "The Cattle Export and Purchase Proclamation 1908" by making further provision for the establishment of ports of exit for the purposes of the said Proclamation in the territory included within the limits of the Barotsiland-North Western Rhodesia Order in Council 1899:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. Section six of the Cattle Export and Purchase Proclamation 1908 shall be and is hereby repealed and the following Section substituted therefor:-

(i) The ports of exit for the purposes of this Proclamation shall be the Railway Station at Livingstone, Feira Drift and such other places as the Administrator may hereafter from time to time by notice in the Gazette declare to be ports of exit under this Proclamation and no cattle shall be exported from the territory save by way of one or other of such ports.

(ii) The Administrator may at any time by notice in the Gazette revoke any such declaration of a place as a port of exit.

2. This Proclamation shall be read as one with  
The Cattle Export and Purchase Proclamation 1908 and  
shall have force and take effect from the date of its  
publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Idemurthy*  
this *15th* day of *Nov*, one thousand  
nine hundred and nine.



*Sellme*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. H. Rodwell*

Imperial Secretary.



**PROCLAMATION**

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by Clause 4 of an Order of His Majesty in Council, dated the tenth day of August 1909 and hereto annexed, it is provided that the said Order shall commence and come into operation on a day to be fixed by the High Commissioner;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known that the said Order of His Majesty in Council shall come into operation on the third day of December, 1909.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg, this Twenty-ninth day of November, One thousand Nine hundred and Nine.

SELBORNE,  
High Commissioner.

By Command of His Excellency the High  
Commissioner.

C. H. RODWELL,  
Imperial Secretary.

AT THE COURT AT BUCKINGHAM PALACE,

*The 10th day of August, 1909.*

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT. LORD SUFFIELD.

LORD CHAMBERLAIN. MR. RUNCIMAN.

MR. PEASE.

Whereas it is expedient to amend the provisions of the Southern Rhodesia Order-in-Council 1898 (hereinafter referred to as "the Order of 1898") and to revoke the Southern Rhodesia Order-in-Council 1905:

Now therefore His Majesty by virtue and in exercise of the powers by the Foreign Jurisdiction Act 1890 or otherwise in His Majesty vested is pleased by and with the advice of His Privy Council to order and it is hereby ordered as follows:—

1. This Order may be cited as the Southern Rhodesia Order-in-Council 1909.

2. The definition of "Military police forces" in article three of the Order of 1898 is hereby revoked and the following definition is hereby substituted (that is to say):

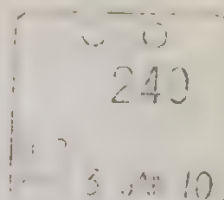
"Military police forces" includes any police and volunteer force which may from time to time be declared by the High Commissioner to be on active service during the period of such service.

3. Article *forty-eight* of the Order of 1898 is hereby revoked with the exception of paragraph (1) thereof; and the following provision shall apply to any police and volunteer forces established within the limits of the Order of 1898:

- (1) Nothing in the nature of a military operation shall be undertaken by any police or volunteer force or any part thereof until such force or part thereof shall have been declared by the High Commissioner to be employed on active service.
  - (2) The High Commissioner may declare when and for what period any police or volunteer force or any part thereof shall be employed on active service, and such force or such part thereof shall, while so employed, be subject to such terms and regulations as the High Commissioner may determine.
  - (3) Any police force shall be liable for service at any place in South Africa either within or without the limits of the Order of 1898.
  - (4) The Resident Commissioner for the time being shall be Commandant-General of the police and volunteer forces and shall exercise
    - (a) the chief command of any police or volunteer force while such force is employed on active service and of any part of any such force while so employed;
    - (b) such powers as may be conferred upon the Commandant-General by Ordinance;
    - (c) the right of inspecting at all times any police or volunteer force.
  - (5) The appointment, promotion, and dismissal of officers of the volunteer and police forces shall save as may be otherwise by Ordinance provided be subject to the approval of the High Commissioner.
  - (6) The Southern Rhodesia Order-in-Council 1905 is hereby revoked.
4. This Order shall be published in the *Gazette*, and commence and come into operation on a day to be fixed by the High Commissioner, and the High Commissioner shall give directions for the publication of this Order, at such place and in such manner and for such time or times as he thinks proper for giving due publicity thereto.
5. His Majesty may from time to time revoke, alter, add to, or amend this Order.

ALMERIC FITZROY.

(Printed by the Government Printer, Pretoria.)



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS the Liquor Licensing Ordinance 1902 of the Transvaal, as amended by the Liquor Licensing Amendment Ordinance 1903 (No. 2 of 1903), the Liquor Licensing Further Amendment Ordinance 1903, and the Liquor Licensing (Railway Employees and Amending) Ordinance 1903 has been applied mutatis mutandis to the Territory of Swaziland and is in force in the said Territory, as amended by High Commissioner's Proclamation No. 24 of 1907:

AND WHEREAS it is desirable further to amend the said Ordinance as regards its application to Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 I do hereby declare proclaim and make known as follows:-

1. Subsection (1) of section thirty-two of the Liquor Licensing Ordinance 1903 as amended by sub-section (5) of section four of the Liquor Licensing Further Amendment Ordinance 1905 and by section three of the Liquor Licensing (Railway Employees and Amending) Ordinance 1903 shall be and is hereby further amended as regards its application to Swaziland by the addition at the end thereof of the following words: "provided that, notwithstanding anything in this sub-section contained, two licenses for the sale of liquor by retail may be granted in any town village or municipality".

2. This Proclamation shall have force and take effect as from the fifteenth day of June 1908.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Johannesburg* this *15* day of *June* one thousand nine hundred and *08*.

  
*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.



PROCLAMATION

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By His Excellency the High Commissioner. 3 JAN 10

WHEREAS under the provisions of Proclamation No. 42 of 1908 the High Court of North Western Rhodesia was empowered to sit at Salisbury or Bulawayo or elsewhere in Southern Rhodesia as occasion might require and to exercise certain powers and functions:

AND WHEREAS it is expedient to make further provision with reference to the proceedings of the said Court when sitting in Southern Rhodesia:

NOW therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. A Judge of the High Court of North Western Rhodesia (herein referred to as the 'said Court') when such Court is sitting at Salisbury or Bulawayo or elsewhere in Southern Rhodesia may punish by fine or imprisonment any person guilty of contempt of such Court committed within the territory of Southern Rhodesia.
2. The said Court may summon by subpoena any person residing either in the territory of Bechuanaland-North Western Rhodesia or in the territory of Southern Rhodesia to appear as a witness and give evidence before it in Southern Rhodesia in any cause or matter therein pending.

3. Every summons for the attendance of any person as witness shall be addressed to the proper officer of the territory in which the person shall reside or shall for the time being be, and such officer shall after due service of such summons make his return thereon to the Registrar of the said Court at the place where the cause or matter for which the summons is issued has been set down for hearing.

4. Should any person when duly summoned to give evidence before the said Court in Southern Rhodesia fail to obey such summons it shall be lawful for a Judge of the said Court in case no lawful cause for such failure shall seem to him to exist to issue a warrant for the arrest of the person making default in order that he may be brought up to give his evidence and to commit such person to prison for any period not exceeding fourteen days and any person so committed to prison may be confined and detained in any prison in either territory which the Judge ordering such imprisonment may direct.

5. Any warrant issued committing any such offender to prison shall be sufficient warrant for the Gaoler to whom it is directed to detain and keep the offender therein mentioned in terms of such warrant.

6. (1) The said Court when sitting at Salisbury or Bulawayo or elsewhere in Southern Rhodesia may administer an Oath to, or cause affirmation to be made by, any witness appearing before it.

(2) Where in any cause or matter it is

- necessary -

necessary to produce to the said Court sitting in Southern Rhodesia any affidavit such affidavit may be sworn or affirmed to before any Justice of the Peace in Southern Rhodesia empowered to take affidavits in the said territory of Southern Rhodesia.

7. Any person who wilfully gives false evidence in any proceeding before the said Court when sitting in Southern Rhodesia shall be guilty of the crime of perjury in the same way as if such false evidence had been given in a proceeding before the High Court of Southern Rhodesia and any person charged with committing such crime in any proceeding before the said Court in Southern Rhodesia may be tried by any competent court of Southern Rhodesia and if convicted punished accordingly.

8. All police officers and constables in Southern Rhodesia shall have full power and authority to make arrests for any contempt or offence committed in relation to the proceedings of the said Court in Southern Rhodesia and shall assist in carrying out the directions of the said Court and the provisions of this Proclamation.

9. The Judge or Judges of the said Court may with the approval of the Administrator of North Western Rhodesia make alter and revoke rules for regulating the procedure and practice of the said Court in so far as the same may be necessary for the proper conduct and despatch of business in the said Court when sitting in Southern Rhodesia; provided that any rules so made may be disallowed by the High Commissioner and any such rules so disallowed shall

shall cease to have any force or effect upon the publication of such disallowance in the Official Gazette of the High Commissioner. So far as such rules do not extend the rules procedure and practice of the said Court when held in Southern Rhodesia shall be the same as the rules procedure and practice of the said Court for the time being in force in Barotziland-North Western Rhodesia.

10. This Proclamation may be cited for all purposes as the Judicial Procedure (North Western and Southern Rhodesia) Proclamation, 1909, and shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Harare*  
this *8th* day of *December* One thousand  
nine hundred and nine.



*Sellman*

High Commissioner.

By Command of His Excellency

The High Commissioner.

*Arthur*

Imperial Secretary.



P R O C L A M A T I O N

By His Excellency The High Commissioner.

WHEREAS it is advisable to amend Sections thirty seven and thirty eight of the High Commissioner's Proclamation of the 10th of June 1891 and Section one of the High Commissioner's Proclamation No. 18 of 1897 by providing that where imprisonment is prescribed as a penalty under any of the said sections such imprisonment may be either with or without hard labour:

NOW therefore under and by virtue of the powers in me vested I do hereby proclaim declare and make known as follows:-

1. Sections thirty seven and thirty eight of the Proclamation of the 10th June 1891 shall be and are hereby amended by the insertion therein immediately after the word "imprisonment" wherever the same occurs in the said sections of the words "with or without hard labour".

2. Section one of Proclamation No.18 of 1897

as amended by Proclamation No. 19 of 1897 shall be  
and is hereby further amended by the insertion therein  
immediately after the word "imprisoned" of the words  
"with or without hard labour".

3. This Proclamation shall take effect from the  
date of its publication in the Gazette.

GOD SAVE THE KING !

Given under my hand and seal at *Pretoria*  
this *1<sup>st</sup>* day of *December* One thousand  
nine hundred and nine.



*Pelloni*

High Commissioner.

By Command of His Excellency  
The High Commissioner.

*Edmund*

Imperial Secretary.

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SANCTIONED.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS doubts have arisen as to the effect of section nineteen of the High Commissioner's Proclamation of the 10th day of June 1891 as in force in the Bechuanaland Protectorate:

AND WHEREAS it is expedient to remove doubts:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaimed and make known as follows:-

1. Section nineteen of the High Commissioner's Proclamation of the 10th day of June 1891 shall be repealed and is hereby repealed as regards its application to the Bechuanaland Protectorate.

2. Subject to the provisions of any Order in Council in force in the Bechuanaland Protectorate at the date of the taking effect of this Proclamation and to the provisions of any proclamation or regulation in force in the said Protectorate at such date including the provisions of the section hereby repealed the laws in force in the Colony of the Cape of

on the 10th day of June 1891 shall mutatis mutandis and so far as not inapplicable be the laws in force and to be observed in the said Protectorate but no Statute of the Colony of the Cape of Good Hope promulgated after the 10th day of June 1891 shall be deemed to apply or to have applied to the said Protectorate unless specially applied thereto by Proclamation.

3. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

**G O D   S A V E   T H E   K I N G .**

GIVEN under my Hand and Seal at Johannesburg  
this     day of December one thousand nine  
hundred and nine.



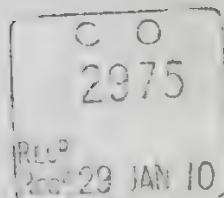
*Sellous*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.





PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by sub-section one of section sixteen of the Swaziland Administration Proclamation 1904 it is provided that the pro rata share of certain costs of the survey of certain concessions affecting land in Swaziland which is repayable by the holder of every such concession shall be determined by the Commission appointed under sub-section one of section eleven of the said Proclamation:

AND WHEREAS by the Swaziland Administration Proclamation 1904 and the Swaziland Concessions Partition Proclamation 1907 as amended by Proclamation No.33 of 1908 it is provided that certain duties shall be performed by the President or by the President or Secretary of the said Commission:

AND WHEREAS by sub-section one of section four of the Swaziland Concessions Partition Proclamation 1907 as amended by section four of Proclamation No.21 of 1909 it is provided that the Special Commissioner appointed under section three of the Swaziland Concessions Partition Proclamation 1907 shall prepare a scheme for allocating between the Swaziland Administration and all holders of land concessions or of freehold title to land in Swaziland

- other -

other than the Swaziland Administration the costs of all surveys made and diagrams framed for the purposes of the said sub-section:

AND WHEREAS it is expedient to make other provision for the performance of the aforesaid duties:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 I do hereby declare proclaim and make known as follows:-

1. The officer for the time being holding the appointment of Special Commissioner together with such other officer or officers as may be from time to time appointed for the purpose by the High Commissioner by notice in the Gazette shall be Commissioners for the performance of the following duties that is to say:-

- (1) the duties imposed by section sixteen of the Swaziland Administration Proclamation 1904 on the Commission appointed under sub-section one of section eleven of the said Proclamation;
- (2) the duties imposed by the Swaziland Administration Proclamation 1904 and the Swaziland Concessions Partition Proclamation 1907 as amended by Proclamation No.33 of 1908 on the President or on the President or Secretary of the said Commission;
- (3) the duties imposed by sub-section one of section four of the Swaziland Concessions Partition Proclamation 1907 as amended by section four of Proclamation No. 21 of 1909 on the Special Commissioner.

2. This Proclamation shall be read as one with the Swaziland Administration Proclamation 1904 and the Swaziland Concessions Partition Proclamation 1907 and the Proclamations amending the same and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at Johannesburg this 22<sup>nd</sup> day of December one thousand nine hundred and nine.



*Sellman*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
*for* Imperial Secretary.

South Africa.

High Commissioner's  
Proclamation

1910.

George C.



## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the law relating to the sale of intoxicating liquor in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. Clause No. 7 of the Trading Regulations enacted by the High Commissioner's Proclamation of the 29th May, 1884 (No. 2 of 1884) shall be and is hereby repealed except as to offences committed penalties incurred and proceedings instituted before the taking effect of this Proclamation.

2. In this Proclamation if not inconsistent with the context

"intoxicating liquor" or "liquor" means any spirit wine ale beer porter cider perry hop beer ghadi or any liquor fluid or compound containing more than three per cent. of proof spirit and any other liquor fluid or compound which the High Commissioner may from time to time declare by notice in the *Gazette* to be included in this definition but shall not include native or kaffir beer;

"*Gazette*" means the *Official Gazette of the High Commissioner for South Africa*;

"sell" or "selling" means and includes barter or supply for any consideration in money goods or services and offering or exposing for sale.

3. Nothing in this Proclamation shall apply to any medical practitioner apothecary chemist or druggist who may administer or sell for purely medicinal purposes any bona fide medicine containing "intoxicating liquor" as hereinbefore defined.

4. It shall not be lawful for any person to sell purchase give receive supply or in any manner whatsoever dispose of or accept any intoxicating liquor within the limits of Basutoland and any person contravening any of the provisions of this section shall on conviction for a first offence be liable to a penalty not exceeding twenty-five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to such imprisonment alone or to both such penalty and imprisonment and for every second or subsequent offence shall be liable to a penalty not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to such imprisonment alone and to both such penalty and imprisonment.

5. (i) No intoxicating liquor shall be brought within the limits of Basutoland without the permission in writing of the Resident Commissioner or of an Assistant Commissioner previously had and obtained.

(ii) Any person contravening the provisions of this section shall upon conviction for a first offence be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to such imprisonment alone or to both such penalty and imprisonment and for every second or subsequent offence shall be liable to a penalty not exceeding forty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to such imprisonment alone or to both such penalty and imprisonment.

6. No persons within the limits of Basutoland shall be in possession of any intoxicating liquor for the introduction and possession of which the permission in writing of the Resident Commissioner or of an Assistant Commissioner has not been previously duly obtained, and any person contraven-

ing the provisions of this section shall upon conviction for a first offence be liable to a penalty not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months or to such imprisonment alone or to both such penalty and imprisonment and for every second or subsequent offence shall be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment for a period not exceeding six months or to such imprisonment alone or to both such penalty and imprisonment.

7. It shall not be lawful for any person within the limits of Basutoland to manufacture or distil any intoxicating liquor from any article save as provided by section one of Proclamation No. 27 of 1906 and any person contravening this section shall be liable to the penalties and punishments provided by section four of this Proclamation.

8. Where any person who is the holder of any trader's hawkers' importer's general dealer's or other licence shall be convicted of contravening any of the provisions of this Proclamation the Court so convicting him may in addition to any other penalty or punishment inflicted upon him cancel any licence or licences held by him and may likewise decree that the person so convicted as aforesaid shall not be eligible to hold or obtain in Basutoland any such licence as aforesaid for such period or at any time thereafter as the Court may think fit.

9. Any liquor found in the possession of any person convicted of contravening any of the provisions of this Proclamation and any vehicles animals stock or other means of conveyance and any apparatus still machinery tools bottles cases labels or other articles used for the conveyance of or in connexion with such liquor may in addition to any penalty or punishment inflicted on such person be forfeited.

10. The Resident Commissioner may direct that any portion not exceeding one-half of the penalty imposed and recovered shall be paid or awarded to any person who may have given such information as shall have led to the conviction of the offender.

11. This Proclamation may be cited for all purposes as the Liquor Proclamation 1910, and shall have force and take effect as from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

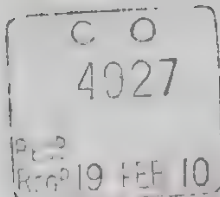
Given under my Hand and Seal at Johannesburg this Fifth day of January One thousand Nine hundred and Ten.

SELBORNE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

W. G. BENTINCK,  
for Imperial Secretary.

(Printed by the Government Printer, Pretoria.)



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the formation registration and management of Co-operative Agricultural Societies within the Bechuanaland Protectorate (hereinafter referred to as "the Territory"):

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

Preliminary.

1. In this Proclamation unless inconsistent with the context -  
"board" shall mean the board of directors of a co-operative agricultural society;  
"co-operative agricultural society" or "society" shall mean a society formed for all or any of the objects set forth in section four;  
"Registrar" shall mean the Registrar of Deeds;  
"model regulations" shall mean such regulations as may be published from time to time by the Resident Commissioner in the Gazette;  
"regulations" shall mean in relation to a co-operative agricultural society the regulations or any alterations thereof or additions thereto registered in accordance with this Proclamation.

## PART I.

### Formation of Co-operative Agricultural Societies.

2. The Registrar shall keep in the form from time to time prescribed by the Resident Commissioner a register of co-operative agricultural societies and carry out such other powers and duties as the Resident Commissioner may subject to this Proclamation or any amendment thereof confer or impose upon him.

3. Any number of persons (not being less than seven) carrying on farming operations in the Territory may form a co-operative agricultural society on complying with the provisions hereinafter contained and subject to the right of veto hereinafter conferred upon the Resident Commissioner.

4. A co-operative agricultural society may subject to the provisions of this Proclamation be formed for all or any of the following objects viz., of -

- (1) disposing of the agricultural produce and live stock of any of its members in the manner most profitable to the society; or
- (2) manufacturing or treating on joint account the agricultural produce of its members and of disposing in the manner most profitable to the society of the produce so manufactured or partly manufactured; or
- (3) initiating schemes of irrigation or water boring or of furthering and developing existing irrigation and water boring schemes; or
- (4) purchasing hiring or otherwise acquiring and working on behalf of its members agricultural implements

- or -



or machinery; or

(5) purchasing hiring or otherwise acquiring and using and controlling on behalf of its members breeding stock; or

(6) purchasing or otherwise acquiring on behalf of and supplying to its members agricultural implements and machinery stock feeding stuffs seeds fruit trees manure and other farming requisites; or

(7) commencing acquiring and carrying on supply stores under a co-operative system for disposing of and supplying agricultural produce, or

(8) commencing and carrying on insurance societies for its members under a co-operative system; or

(9) acquiring and distributing information as to the best manner of carrying on farming operations profitably; or

(10) acquiring by lease purchase or donation and holding any immovable property in the Territory for the better carrying on of any of the objects of the society;  
or

(11) raising money on loan for any of the lawful objects of the society; or

(12) any other lawful object which the Resident Commissioner may from time to time permit for furthering the interests and development of agriculture in the Territory.

5. (1) Within one month after the formation of any co-operative agricultural society or in the case of a society formed before the date of the operation of this Proclamation within six weeks after such date application shall be

made to the Registrar in the form from time to time prescribed by the Resident Commissioner for the registration of such society under this Proclamation.

(2) With such application there shall be transmitted the regulations of the society which has been formed or if no such regulations have been adopted a copy of the model regulations.

(3) In the event of non-compliance with the provisions of sub-section (1) by any person or body of persons formed into a co-operative agricultural society every such person and every member of such body shall be liable on conviction for every day on which such non-compliance has continued to a fine not exceeding one pound.

(4) For the purposes of this section a society shall be deemed to have been formed if it carries on operations as a co-operative agricultural society or uses as part of its name the word "co-operative" in conjunction with the term "agricultural society" or other term importing a similar meaning or holds itself out in any manner as a co-operative agricultural society.

6. (1) Any society which it is proposed to register under this Proclamation may adopt as its regulations all or any of the model regulations.

(2) Upon any registration under this Proclamation of a society in so far as any regulations tendered for registration are not inconsistent with or do not exclude or modify the model regulations the model regulations shall form part of the regulations of that society in the same manner and to the same extent as if they were contained in the regulations tendered and

shall be registered as a part of such regulations.

7. (1) No society formed after the date of the operation of this Proclamation shall be registered unless the members shall have first held a meeting at which there has been presented a written report stating -

- (a) the objects of the society;
- (b) a list of the promoters;
- (c) the business prospects of the society and facts and statistics calculated to show that when registered it will be able to carry out its objects successfully;
- (d) a copy of the regulations which it is proposed to tender for registration.

(2) If after consideration of such report and the documents comprised or referred to therein a majority of the meeting shall approve the same the meeting shall proceed to select the directors of the society in accordance with the provisions of section twelve and the regulations of the society and may elect a person qualified as prescribed in section twenty-one as its first auditor. Provided that if the meeting shall not elect an auditor the directors of the society shall as soon as practicable after their election appoint an auditor as provided for in paragraph 5 of section twenty-one of this Proclamation.

(3) A copy of any such report together with a list containing the full names true signatures addresses and occupations of the existing members shall be transmitted to the Registrar when the application for registration is made.

8. (1) The Registrar shall not register any society unless the regulations tendered with the application comply with and are in no way repugnant to or inconsistent with the provisions of this Proclamation nor until all other provisions of this Proclamation in respect of registration have been complied with.

(2) The regulations shall be divided into paragraphs and numbered consecutively and shall set forth inter alia -

- (a) the proposed name of the society with the word "co-operative" as part of its name;
- (b) a correct and full description of the locality and premises where the office of the society is to be situated;
- (c) the objects of the society;
- (d) the period for which the society is to be established;
- (e) the manner in which the capital of the society is to be raised or procured;
- (f) the mode and conditions of admission to membership of the society and the circumstances permitting of resignation or justifying exclusion or expulsion therefrom and the rights and liabilities of members resigned members expelled members whether as between the society and themselves or between each other;
- (g) the number of directors of the society and the powers and duties of directors and other officers;
- (h) the intervals between the holding of general meetings of the society (not exceeding in any case an interval of six months) the requisite notices of and procedure at meetings (including



the particular rights of members in voting thereat and the manner of voting and the majority necessary for carrying any particular class of resolution);

- (1) the mode of managing the funds of the society of keeping and auditing its accounts of the keeping of registers of members;

and may provide for the settlement by arbitration of disputes arising between members or between the society and any member resigned member or expelled member.

- (3) The regulations which it is proposed to register shall be tendered in duplicate to the Registrar who shall submit the same to the Resident Commissioner. The Resident Commissioner may in his discretion veto the registration of any society but if within a period of one month he shall not exercise his right to veto and if the provisions of this Proclamation have been complied with the Registrar shall register the regulations file one duplicate in his office and return the other with the date of registration endorsed thereon to the society.

- (4) The regulations so tendered for registration shall be signed by not less than seven persons each of whose signatures shall be attested by at least one witness.

- (5) A fee of one pound denoted by means of stamps shall be payable to the Registrar upon registration and such stamps shall as soon as registration is approved by him be affixed to the application for registration and defaced by the Registrar.

(6) As soon as registration of a society has been so effected the Registrar shall transmit to the office of the society a certificate of registration in the form prescribed by the Resident Commissioner which shall in all courts and places be conclusive evidence of the facts stated therein. Upon receipt of such certificate such society shall be deemed for all purposes to be a co-operative agricultural society under this Proclamation and to have all the rights powers privileges and duties by this Proclamation or any amendment thereof or by any other law conferred or imposed on co-operative agricultural societies and shall be thereupon entitled to commence or if formed before the date of the operation of this Proclamation to continue operations as a co-operative agricultural society.

9. (1) Any part of the regulations of a society may be altered from time to time by the members thereof in general meeting subject to the provisions of section nineteen.

(2) Every alteration of regulations so made shall within one month thereafter be tendered to the Registrar for registration who shall subject to a power which is hereby conferred upon the Resident Commissioner of refusing to allow the alteration register the same and thereupon the regulations of the society as originally registered shall be read subject to the alteration.

(3) The provisions of sub-sections (3) (4) and (5) of the last preceding section shall apply in respect of the registration of regulations so altered.

10. It shall be a condition of membership of every society that all its members shall be jointly and severally liable for payment of the obligations of the society provided that the liability of the estate of any person who has died or any person who has resigned his membership or has been expelled from the society shall cease -

(1) in respect of any of its obligations incurred after his decease or after he has ceased to be a member; and in all respects

(2) as soon as the financial statement of the society signed by its auditor as hereinafter provided discloses a credit balance in favour of the society.

11. (1) No society shall be required to have any fixed capital.

(2) The funds necessary for carrying on the operations of the society shall consist of -

(a) capital funds - including any loans raised by the society - any stock in trade of the society and any securities for loans advanced by the society to members;

(b) revenue funds - including entrance fees of members the reserve fund (if any) of the society and undistributed profits (if any) of the society.

(3) No part of the funds of any society shall be divided amongst its members by way of profit bonus dividend or in any other manner than is authorised by its regulations in respect of credit balances due to members.

- PART -

## PART II.

### Management of Co-operative Agricultural Societies.

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12. (1) The operations of every society shall be managed and controlled by a board of directors consisting of not less than five nor more than seven of the members of the society who shall be elected at the annual general meeting thereof.

(2) Subject to the provisions of this section the directors shall be elected in manner prescribed by the regulations of the society and subject to the next succeeding section shall hold office and retire as so prescribed.

(3) The directors shall hold meetings as often as may be necessary for properly conducting the business and operations of the society but in no case at intervals exceeding one month unless it has been impossible to obtain a quorum in which case a meeting shall be held as soon as it is so possible.

(4) Three directors shall be the quorum of any meeting of directors.

(5) The directors shall at the first meeting of the board held after the annual general meeting elect one of their number to be chairman until the next annual general meeting and if any vacancy occur during the year in the office of chairman it shall be filled as soon as a meeting of the board can be convened.

13. (1) A director shall vacate his office -

- (a) if he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors;
- or



- (b) if he dies or becomes of unsound mind or is convicted of an offence and sentenced to any period of imprisonment without the option of a fine; or
  - (c) if he absents himself from four consecutive ordinary meetings of the board without its leave ( and such leave shall not be granted for a period covering more than six consecutive ordinary meetings unless the absence be on the business of the society); or
  - (d) if he resigns his membership of the society or is lawfully expelled therefrom; or
  - (e) if he gives one month's notice in writing to the board of his intention to resign office and his resignation is accepted by the board.
- (2) Any vacancy so occurring shall be filled as prescribed by the regulations of the society.

14. (1) Subject to the provision of sub-section (2) of this section to the regulations of the society and to any restrictions thereby imposed on the powers of the board or of the directors the board shall have the same powers and be subject to the same obligations in respect of the society as if they had been conferred or imposed by a general meeting of the society and every director acting upon a resolution of the board shall be deemed to be the agent of the society for all purposes within the scope of its objects.

- (2) No loan shall be raised by the board involving a liability of the society exceeding the amount of one hundred pounds unless the same has been sanctioned by a general meeting of the society specially convened for the purpose of considering the proposal to raise such loan.

(3) Subject to his compliance with the provisions of this Proclamation no director shall be held liable to the society for any loss it may sustain unless the loss was due to his wilful misconduct or gross negligence.

15. Unless it is otherwise provided in the regulations of the society the financial year shall be from the first day of July to the thirtieth day of June next ensuing both days inclusive.

16. (1) A general meeting of every society shall be held within six weeks after the close of the society's financial year for the purpose of considering and dealing with the financial position and the balance sheet and statement of accounts of the society and for the election of directors and auditor and for general business. Such meeting shall be called the annual general meeting and shall be held at such convenient place and time as shall be prescribed by the board.

(2) In addition to the annual general meeting the board or any two directors jointly signing the notice may by written notice convene a special general meeting of the society when the holding of such meeting appears necessary in the interests of the society and the board shall convene such meeting if a requisition in writing signed by one-fifth of the members of the society be transmitted to the board.

(3) If within fourteen days after the transmission of such requisition a special meeting be not convened by the board it may be convened by the requisitionists.

(4) The periods and forms of notice of annual and special general meetings of the society shall be as

prescribed by the regulations of the society.

17. (1) The chairman of the directors if present shall unless the meeting otherwise determine by resolution be the chairman of any general meeting.

(2) No item of business shall be transacted at any general meeting unless a quorum of members is present during the time when the meeting proceeds to consider that item.

(3) One-fifth of the members of the society shall be a quorum thereof; provided that a quorum shall in no case consist of less than five members.

(4) If within one hour from the time appointed for the meeting a quorum is not present the meeting if convened upon the requisition of members shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting a quorum is not present within one hour from such time the members present shall constitute a quorum.

18. (1) Save as is otherwise provided in this Proclamation or the regulations of the society every question for decision by a general meeting shall be determined by the majority of members present thereat and on a show of hands unless a poll be demanded by at least five members.

(2) The declaration by the chairman that a question to be so decided has been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(3) A poll if demanded shall be taken forthwith but in the manner prescribed by the regulations of the society.

(4) The chairman of the meeting shall in addition to his deliberative vote have also a casting vote in the case of an equality of votes whether on a show of hands or on a poll unless it is otherwise provided by the regulations of the society.

19. Notwithstanding anything in section seventeen or eighteen or in the regulations of a society contained -

(1) no loan involving a liability of the society exceeding one hundred pounds shall be raised and no alteration of its regulations shall be made unless the loan or alteration (as the case may be) has been approved by two-thirds of the members of the society; and

(2) no alteration of the regulations affecting the reserve fund of the society shall be made unless approved by five-sixths of the members;

and in every such case the question of such loan or alteration shall not be considered except at a special meeting convened for that purpose and at which all votes are recorded in person. If an insufficient number of members be present or a sufficient number being present an insufficient number vote at the meeting it shall be adjourned to a date and place to be fixed by two-thirds of the members present and the meeting shall be constituted in the manner hereinbefore in this section stated.

20. (1) Minutes of the proceedings at all general meetings and of every meeting of the board shall be regularly entered in separate books kept for the purpose

and containing proper tabulated details of the business conducted at the meeting.

(2) The minutes and proceedings of each meeting shall be submitted at the next ensuing meeting and if passed thereat as correct, shall be confirmed by the chairman thereof and shall thereupon without further proof be prima facie evidence in all courts and places of the proceedings of the meeting of which they purport to be minutes.

(3) Every such minute book shall be kept at the office of the society and shall be open to inspection of any person authorised thereto in writing by the Resident Commissioner.

21. (1) Every society shall at each annual general meeting appoint a person who publicly carries on the business of an accountant as the auditor of its accounts for the current financial year. The retiring auditor shall be eligible for re-election.

(2) If an appointment of such person as auditor be not made at that meeting the Resident Commissioner on the application of any member of the society may appoint an auditor qualified as aforesaid to hold office till he has audited the accounts of that year.

(3) The Resident Commissioner may at any time appoint an auditor or auditors to investigate and report upon the books accounts and affairs of any society.

(4) A director or officer of the society shall not be capable of being appointed its auditor.

(5) A casual vacancy in the office of auditor may be filled by the directors by appointing a person qualified as aforesaid to hold office till the audit of the accounts of that year is completed.



- (6) The remuneration of the auditor shall be fixed by the society in general meeting; provided that -
- (a) the Resident Commissioner may fix the remuneration of an auditor appointed under sub-section (2), and
  - (b) the directors may fix the remuneration of an auditor appointed under sub-section (5).

All such remuneration shall be payable out of the revenues of the society.

- (7) Every auditor appointed under this section shall have a right of access to the books accounts and vouchers of the society and may require from its directors and other officers such information as may be necessary for the performance of his duties as auditor.

- (8) In making any report to the members of the society or in signing the statements mentioned in the next succeeding section the auditor shall state -

- (a) whether he has obtained the information and explanations required by him; and
- (b) whether in his opinion the statements are properly drawn up so as to exhibit a true and correct view of the financial position of the society according to the information at his disposal and explanations given to him and as shown by the books of the society.

22. (1) Not less than three weeks before the date fixed for the annual general meeting the board shall prepare the balance sheet and profit and loss account and a financial statement made up to the close of the previous financial year of the society.

(2) Such balance sheet profit and loss account and financial statement signed by a majority of directors and by the auditor of the society if approved by him after examination of the accounts of the society shall be transmitted to each member of the society with the notice of such general meeting or in the alternative if it be so provided by the regulations of the society such statements shall be open to inspection of members at its offices for a period to be fixed by those regulations.

(3) Such balance sheet account and statement aforesaid signed as aforesaid shall further be published in a newspaper circulating in the district in which the society's office is situate.

(4) Such balance sheet account and statement aforesaid signed as aforesaid shall further be transmitted to the Resident Commissioner who may in any case in which he deems it advisable submit the same for report to any auditor nominated by him.

23. (1) Every society shall keep at its office and open to inspection at all reasonable hours -

(a) a complete list of its members showing the name address and occupation of each member; and

(b) a correct copy of its regulations with any alterations therein made and registered under this Proclamation; and

(c) a list of the directors showing the name address and occupation of each director.

(2) A copy of each such list made up to the last days of the months of June and December showing which members have during the previous six months been

- admitted -

admitted as members together with their true signatures addresses and occupations and a list of persons who have resigned their membership or been expelled therefrom during the same period shall be transmitted by the board to the Registrar within fourteen days after the expiry of each such period.

### PART III.

#### Dissolution of Co-operative Agricultural Societies.

24. (1) A society may be dissolved -
- (a) by resolution of a special general meeting called for the purpose passed by two-thirds of the members of the society such members being personally present; and in such event any person or persons may at such meeting be appointed to wind up the affairs of the society or if no such persons are appointed the directors shall wind up the affairs of the society;
  - (b) on the order of the High Court or a Judge thereof or of the Court of Resident Commissioner provided application be made for dissolution by a person who would if such society were a company registered in the Territory under the law for the time being regulating the registration and winding up of registered companies have been entitled to obtain an order for the compulsory winding up of the company.
- (2) If the society is dissolved under paragraph (a) of sub-section (1) after all the liabilities and obligations present or contingent of the society have

- been -

been discharged the surplus (if any) including the reserve fund (if any) shall be distributed among existing members in proportion to the aggregate of the sale moneys on account of each member by the society during the last preceding three years or if the society has not existed for such period during the existence of the society.

(3) If the society is dissolved under paragraph (b) of sub-section (1) the Court exercising jurisdiction to dissolve may in its discretion apply any provision of the law for the time being in force regulating the winding up of registered companies as if the society were a registered company and if any assets remain over after satisfying the liabilities and obligations of the society and the costs of the dissolution the same shall be distributed in accordance with the provisions of sub-section (2) of this section.

(4) A society shall be dissolved without any such resolution thereof or order of Court when the number of its qualified members is reduced below seven or when the period (if any) fixed for the duration of the society by its regulations expires or whenever any event occurs upon the occurrence of which the regulations provide that the society is to be dissolved.

Upon dissolution the provisions of paragraph (a) of sub-section (1) of this section shall apply without prejudice however to any application to Court that may be made under paragraph (b) of such sub-section and if such application be made the provisions of sub-section (3) shall apply.

25. Whenever a society has been dissolved under the last preceding section the directors thereof shall if the dissolution be by resolution or under sub-section (4) or if the dissolution be by the court the officer registering orders of such court shall within fourteen days of the dissolution give notice thereof to the Registrar who shall thereupon remove the name of the society from his register of societies.

#### PART IV.

##### Miscellaneous.

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26. Notwithstanding anything in the laws in force in the Bechuanaland Protectorate relating to stamps and licences it shall not be obligatory upon any society to obtain a licence to trade or carry on business in so far as the trade or business carried on is exclusively with the members of the society or in so far as the goods sold by it are the agricultural produce of the Territory.

27. If a society continues to carry on its operations when the number of its members (qualified to be members in accordance with section three) is reduced below seven for a period of one month after the number is so reduced every person who is a member of the society during the time that it continues to carry on its operations after such period and is cognisant of the fact that it is so carrying on its operations with less than seven qualified members shall be liable to a fine of one pound for every day during which the operations are so carried on and shall further be severally liable to satisfy all the obligations of the society incurred during such time and may be sued for the



same without any other member being joined in the action.

28. If any person shall wilfully make in any return report financial statement or balance sheet or other document required for the purposes of this Proclamation a statement false in any material particular knowing it to be false he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to such period of imprisonment without the option of a fine.

29. Any director or officer of a society who shall accept any commission fee or reward whether pecuniary or otherwise from any person for or in connection with any transaction with the society shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section and shall further be liable to make good to the society double the value or amount of such commission fee or reward.

30. Any person who shall where no penalty is expressly provided fail to comply with any requirement of this Proclamation within the time or in the manner thereby prescribed or commit any other contravention thereof shall be liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

31. (1) All legal proceedings by or against any society shall be instituted or taken in the name of the society.

(2) If judgment has been obtained against the society

and such judgment is not within three months thereafter satisfied the plaintiff may proceed against all members or any member of such society in respect of such liability.

(3) Save as aforesaid no legal proceedings shall lie against a member of a society individually in respect of an obligation of the society.

32. (1) Any immovable property acquired and held by a society under this Proclamation or its regulations may be registered in the name of the society without reference to the names of the members thereof.

(2) All movable property acquired and held by the society shall be deemed in all legal proceedings civil or criminal to be vested in the society.

33. This Proclamation may be cited for all purposes as the "Co-operative Agricultural Societies (Bechuanaland Protectorate) Proclamation 1910" and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at Johannesburg  
this *20th* day of January one thousand nine hundred  
and ten.

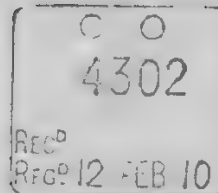


*Sturges*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*Chittenden*

Imperial Secretary.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient in order to facilitate the administration of justice in Swaziland to amend certain of the provisions of the Swaziland Administration Proclamation 1907 (hereinafter referred to as the "principal law"):

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare Proclaim and make known as follows:-

1. Section 9 of the principal law shall be and is hereby repealed and the following section substituted therefor:

"There shall be and are hereby established so many Courts of Assistant Commissioner as the High Commissioner may from time to time determine which shall have jurisdiction in all civil proceedings in which neither party is a European and in criminal proceedings in which the accused is not a European; provided always that a Court of Assistant Commissioner shall not have jurisdiction to try summarily any

person charged with treason murder attempt to murder culpable homicide rape attempt to commit rape or sedition; and the Assistant Commissioner in the cases last mentioned and in such other criminal cases as it may appear to him in the interests of justice to do so shall whether or not the trial of such cases has been already commenced proceed in the manner prescribed by Chapter VII of the Criminal Procedure Code 1903 of the Transvaal".

2. Subsection (1) (a) of section fourteen of the Principal law shall be and is hereby repealed and the following substituted therefor:

"that in the trial of any person charged with the commission of any crime such Court shall consist of the Resident Commissioner and two Assistant Commissioners".

3. Subsection (1) (c) of section fourteen of the Principal law shall be and is hereby repealed and there shall be added as a further sub-section after sub-section (2) the following:

"(3) If in any civil case which falls within the jurisdiction of a Court of Assistant Commissioner other than such cases as are specified in section two of Proclamation No.36 of 1907 an action shall have been commenced in the Court of Resident Commissioner the plaintiff in such action shall not if successful be entitled to recover any costs exceeding the estimated amount of the costs which he would have been entitled to recover if the same action had been brought in the Court of Assistant Commissioner having jurisdiction therein; and if the plaintiff shall be condemned

in the costs of such action such costs shall include costs between attorney and client; unless in either case the Court trying the action shall find and record that there were reasonable grounds for bringing the action in such Court".

4. Section twenty-three of the principal law shall be and is hereby repealed.

5. This Proclamation shall be read as one with the principal law and shall take effect from the twenty-first day of January, 1910.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at Johannesburg  
this 30th day of January one thousand nine  
hundred and ten.



*S. J. ...*

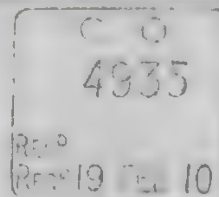
High Commissioner.

By Command of His Excellency the High Commissioner.

*L. H. ...*

Imperial Secretary.





PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the law of the Transvaal as in force in Swaziland relating to the registration and control of dogs in Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The Laws and Volksraad Resolutions of the Transvaal mentioned in the Schedule hereto shall be and are hereby repealed to the extent to which they are in force in Swaziland by virtue of section two sub-section (1) of the Swaziland Administration Proclamation 1907 together with any other law or Volksraad Resolution of force in Swaziland repugnant to or inconsistent with the provisions of this Proclamation.

2. (1) Every owner or other person having the custody or control of a dog shall as soon as the same

is of the age of six months register such dog and take out in respect thereof a registration certificate and badge as hereinafter provided. Such certificate shall be issued in the form and manner prescribed by regulation under this Proclamation and shall be renewed annually and with such certificate there shall be issued to the holder thereof a metal badge stamped with the number of such certificate and of the year for which it was issued; and if such metal badge be lost or destroyed the certificate holder may obtain from the person appointed to issue the same a duplicate of such badge on payment of a fee of one shilling.

(2) In respect of dogs which are on the first day of April in any year of the age of six months and over application shall be made for such certificate or a renewal thereof within one month after such date and in respect of dogs reaching such age between such date and the thirty-first day of March next ensuing application for a certificate shall be made within one month after it reaches such age.

(3) For every such certificate or renewal thereof there shall be paid the sum of five shillings.

(4) On the renewal of such certificate or badge the person appointed to issue the same may require the delivery to him of any certificate or badge previously issued to the same person for a period which has expired.

3. Every person who has in his possession or custody or under his control a dog in respect of which a registration certificate is under this Proclamation necessary shall if requested by a Justice of the Peace Police

- Officer -

Officer or Constable or any person appointed to issue such certificate and within a reasonable time after such request produce or cause to be produced for inspection any such certificate and the dog in respect of which it was issued.

4. Every holder of such certificate shall for the time during which it is in force cause the metal badge issued to him as aforesaid to be worn at all times by the dog in respect of which such certificate was issued.

5. Any dog may be forthwith destroyed by any Police Officer or Constable if found in any place without a badge issued in respect of it under this Proclamation and for a period not then expired.

6. The Resident Commissioner may by notice in the Gazette from time to time make alter and repeal regulations prescribing the forms of registration certificates and metal badges to be issued under this Proclamation.

7. (1) Any person required by this Proclamation to have a dog registered who does not obtain the certificate in respect thereof within the period prescribed by section two or who fails to produce the same or the dog in respect of which it was issued when required in accordance with section three shall be guilty of an offence and may be arrested without a warrant and on conviction shall be liable to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(2) Any person found in possession of a dog in respect of which a registration certificate under this Proclamation is necessary which is not wearing a

- metal -

metal badge issued in respect of it and for a period not then expired shall be guilty of an offence and may be arrested without a warrant and shall on conviction be liable to a fine not exceeding one pound or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

(3) Any person who shall

(a) fabricate any document or piece of metal with intent that such document shall be used as a registration certificate or such piece of metal shall be used as a badge issued under this Proclamation;

(b) use or alter any fabricated document or piece of metal well knowing the same to have been fabricated with the intent aforesaid;

(c) steal or be found in possession (without being able — satisfactorily <sup>to</sup> account for such possession) of a badge issued under this Proclamation to another person;

(d) with fraudulent intent make use of a registration certificate or badge after the period for which it was issued has expired;

shall be guilty of an offence and shall be liable on conviction to imprisonment with hard labour for a period not exceeding two years.

8. Every Resident Justice of the Peace may try any contravention of this Proclamation committed within the area of his jurisdiction save and except the offences mentioned in sub-section (3) of the last preceding section.

9. This Proclamation shall take effect from and after the first day of April 1910.

G O D   S A V E   T H E   K I N G .

GIVEN under my Hand and Seal at *Johannesburg*  
this *20th* day of *January* one thousand  
nine hundred and ten.



*Sellman*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. H. Smith*

Imperial Secretary.



S C H E D U L E.

Volksraad Resolution Article 567 of  
16th June 1867,

Law No. 3 of 1891,

First Volksraad Resolution Article 114 of  
17th May 1893,

First Volksraad Resolution Article 688 of  
29th June 1898,

of the Transvaal.

P R O C L A M A T I O N

By His Excellency The High Commissioner.

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WHEREAS by the Southern Rhodesia Order in Council, 1898, the High Commissioner is empowered by Proclamation to create electoral districts, and to declare what number of members shall be elected to the Legislative Council for each district.

NOW therefore, by virtue of the powers conferred upon me by the said Order in Council, I do hereby proclaim, declare and make known as follows:-

1. Proclamation No.4 of the 7th March, 1903, is hereby repealed.
2. The Territory South of the River Zambesi under the control of the British South Africa Company, known as Southern Rhodesia, shall be divided into four areas, which are hereby created Electoral Districts for the return of Members of the Legislative Council, as hereinafter set forth.
3. The said Electoral Districts shall respectively be known as the Northern, Eastern, Midland, and Western Electoral Districts.
4. The Northern Electoral District shall comprise the following native districts as at present defined:-
  1. Lomagundi.
  2. Darwin.
  3. Mazoe.
  4. Goromonzi, inclusive of the Municipality of Salisbury with its commonage.

5. Mrevas.
6. Marandellas.
7. Mtoko.
8. Hartley.
9. Charter.

5. The Eastern Electoral District shall comprise the following native districts as at present defined:-

1. Inyanga.
2. Makoni
3. Umtali, inclusive of the Township of Umtali with the Town Reserve.
4. Melsetter.

6. The Midland Electoral District shall comprise the following native districts as at present defined:-

1. Gwelo, inclusive of the Township of Gwelo with the Town Reserve.
2. Selukwe.
3. Belingwe.
4. Ndanga.
5. Victoria.
6. Gutu.
7. Chilimanzi.
8. Chibi.

7. The Western Electoral District shall comprise the following native districts as at present defined:-

1. Mzingwane, inclusive of the Municipality of Bulawayo with its commonage.
2. Bubi.
3. Matobo.
4. Insiza.
5. Bulalima-Mangwe.
6. Tuli-Manzanyama.
7. Sebungwe.
8. Wankie.

8. The said Electoral Districts shall return Members to the Legislative Council as follows:-

The Northern Electoral District, two members.

The Eastern and Midland Electoral Districts, one member each.

The Western Electoral District, three members.

9. The Magistrates of Salisbury, Umtali, Gwelo, and Bulawayo shall be the Returning Officers for the Northern, Eastern, Midland and Western Electoral Districts respectively.

GOD SAVE THE KING !

Given under my hand and seal at *Pretoria*  
this *14<sup>th</sup>* day of *February* One thousand  
Nine hundred and Ten.



*[Signature]*

High Commissioner.

By Command of His Excellency  
The High Commissioner.

*[Signature]*

Imperial Secretary.

PROCLAMATION

By His Excellency The High Commissioner.

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WHEREAS by the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 the High Commissioner is empowered from time to time to provide by Proclamation for the raising of revenue and generally for the peace order and good government of Swaziland and all persons therein;

AND whereas under and by virtue of Proclamation No.11 (Swaziland) of 1905 and of section two of the Swaziland Administration Proclamation 1907, the Revenue Licences Ordinance 1905 of the Transvaal is a law in force in Swaziland as amended by Proclamation No.1 (Swaziland) of 1906;

AND whereas it is expedient to amend the said Revenue Licences Ordinance 1905 as amended by Proclamation No.1 (Swaziland) of 1906 with respect to the licences to be taken by companies carrying on banking business in Swaziland;

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty as afore-



said I do hereby declare proclaim and make known as follows:-

1. Section thirteen of the Revenue Licences Ordinance 1905 of the Transvaal and section seven of Part I of the second schedule thereto as regards their application to Swaziland and the Swaziland Licensing Law Amendment Proclamation 1907 shall be and are hereby repealed.

2. (1) Every company carrying on banking business within the territory of Swaziland shall take out a yearly licence in respect of each head or branch office of such company in Swaziland which shall authorise the carrying on of such business at each such head or branch office.

(2) The amounts payable in respect of such licences shall be as follows:- For the first or only office the sum of Fifty pounds and for each and every other office the sum of Twenty-five pounds.

(3) Every such licence shall be taken out at the office of the Resident Commissioner.

3. Notwithstanding anything contained in sub-section (1) of section six of the Revenue Licences Ordinance 1905 no licence shall be issued under this Proclamation for a shorter period than one year.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

Given under my Hand and Seal at *Port Louis*  
this *23rd* day of *February*, One thousand  
Nine hundred and Ten.



*S. J. J.*  
High Commissioner

By Command of His Excellency  
The High Commissioner.

*[Signature]*

Imperial Secretary

DECLARATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS in the year 1906 the said territory was established in  
accordance with the authority of the High Commissioner  
and a small number of representatives of the people  
of the territory for the purpose of discussing  
the question of its future:

AND WHEREAS the High Commissioner has since  
that time been in communication with the said  
representatives and has received from them  
a declaration of their wishes and intentions  
in relation to the future of the territory:

AND WHEREAS it is expedient to give such  
declaration and intentions full effect and to give in  
accordance therewith:

NOW KNOW YE that the High Commissioner has  
in accordance with the authority of the High  
Commissioner and in accordance with the wishes  
and intentions of the said representatives:

1. That there shall be in the said territory  
a small number of representatives of the people  
of the territory for the purpose of discussing  
the question of its future and that such  
representatives shall be chosen by the people.

2. That the said representatives shall be chosen  
in accordance with the wishes and intentions  
of the people and that the said representatives  
shall be chosen by the people.

(2) The President Elect for the time being shall be a member of the Council.

(3) The President Elect shall nominate to the Council not more than twenty-four persons belonging to the same tribe and such persons shall if approved by the Resident Commissioner be appointed by him to be members of the Council.

(4) Such appointments shall include the principal persons contributing to the support of the tribe and it shall be the duty of the President Elect to ensure that such persons are not in the opinion of the Resident Commissioner for any reason excluded for membership of the Council and shall continue to be eligible for re-appointment of the President Elect to the Council and shall be eligible for election and election of the President Elect to the Council and shall be eligible for election and election of the President Elect to the Council.

(5) The Resident Commissioner shall have power to appoint not more than five persons to be members of the Council.

8. (1) Persons appointed under sub-section (2) and (3) of the preceding section or under section 7 shall continue to be members of the Council until the first day of January in the year in which they are appointed and shall after that day cease to be members but shall be eligible for re-appointment.

(2) Appointments of members of the Council shall be made as soon as may be after the first day of January in each year.

(3) The President shall have power to suspend any member of the Council for such period as he may determine and no member so suspended shall be permitted to attend any meeting of the Council during such period.

4. Where any casual vacancy occurs in the Council through the death or resignation of any member the President Commissioner may appoint a person to fill such vacancy provided that if such vacancy occurs under the authority appointed by the President Commissioner on the nomination of the Government Chief the President Commissioner shall before appointing any person to fill such vacancy invite the Government Chief to nominate a person for such vacancy and if the President Commissioner is proved such nomination he shall appoint the person so nominated.

5. It shall be lawful for the President to appoint a member of the Government to be his deputy and to preside in his absence at sessions of the Council.

6. Sessions of the Council may be convened by the President Commissioner at such times and places as he may determine provided

- (1) that not less than one session shall be convened between the first day of January and the last day of December in each year;
- (2) that such session shall commence on being declared by the President to be open and continue until declared by him to be closed.

7. The President Commissioner shall in each year cause to be submitted to the Council an account showing under such heads as the President Commissioner may approve the amount of any revenue collected in and from the Municipalities for the last preceding financial year and the manner in which such revenue has been expended.



8. It shall be lawful for the President to lay before the Council the draft of any proposed law affecting the territory and to invite the expression of the opinion of the Council upon such draft and any discussion or resolution of the Council thereon shall be recorded in the minutes of the Council's proceedings.

9. It shall be lawful for any member of the Council to discuss the provisions of any Proclamation of the High Commissioner affecting the territory and to suggest amendments to any such Proclamation and any discussion or resolution of the Council on the subject of such Proclamation shall be recorded in the minutes of the Council's proceedings.

10. It shall not be lawful for the Council to discuss or to pass resolutions upon any matter which in the opinion of the President is not one of those domestic affairs of the territory for the purpose of determining which the Council exists and any member of the Council who shall disregard the ruling of the President on this subject shall be liable to suspension under section three and section (iii) of this Proclamation.

11. As soon as may be after the close of each session the Resident Commissioner shall forward to the High Commissioner the minutes of the Council's proceedings and any resolutions passed by the Council with his report thereon.

12. The Resident Commissioner may from time to time make alter and revoke rules for regulating the proceedings of the Council and the payment of members

And for fixing the mode and preserving order at meetings of the Council provided that it shall be lawful for any member of the Council to discuss or to suggest amendments in such rules and any discussion or resolution of the Council on the subject of such rules shall be recorded in the minutes of the Council's proceedings.

13. It shall be lawful for the Resident Commissioner in consultation and co-operation with the Paramount Chief to bring before the Council or before such members of the Council as may be specially selected by him and the Paramount Chief and constituted for this purpose a committee of the Council any questions or disputes of a purely tribal character arising between natives and to invite the opinion of the Council or committee of the Council on such questions or disputes. It shall be the duty of the Resident Commissioner to communicate to the Paramount Chief for his information the opinion of the Council or committee of the Council in reference to such questions or disputes.

14. All powers conferred by this Proclamation upon the Assistant Commissioner shall be exercised by him subject to such instructions as he may from time to time receive from the High Commissioner.

10. This Production may be cited for all purposes as if it were a part of the original Production.



PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS by an agreement entered into on the first day of April 1907 between representatives of the Governments of Swaziland and Basutoland and approved by me the Government of Basutoland agreed to lend to the Government of Swaziland for administration purposes on the terms therein stated a sum not exceeding twenty thousand pounds:

AND WHEREAS the said agreement provides inter alia for the payment of interest by the Government of Swaziland at the rate of four per cent per annum on the amount advanced thereunder and for the repayment of such amount on the first day of April 1917:

AND WHEREAS a sum of twenty thousand pounds (hereinafter referred to as "the first loan") has been lent by the Government of Basutoland to the Government of Swaziland under the terms of the said agreement:

AND WHEREAS by a further agreement entered into between the two said Governments on the twenty-third day of December 1908 and approved of by me the Government of Basutoland agreed to lend to the Government of Swaziland for administration purposes on the terms therein stated a further sum of forty thousand pounds:

AND WHEREAS the said further agreement provides inter alia for the payment of interest by the Government of Swaziland at the rate of three and a half per cent per annum on the amount advanced and for the repayment of such amount on the fifth day of November 1933 and for the re-payment of the whole or any part thereof at any earlier date on the Resident Commissioner of Swaziland giving not less than one month's notice of his intention to make such repayment:

AND WHEREAS the said sum of forty thousand pounds (hereinafter referred to as the "second loan") has been lent by the Government of Basutoland to the Government of Swaziland under the terms of the said further agreement:

AND WHEREAS it has been further agreed between the two said Governments that the Government of Basutoland will lend to the Government of Swaziland, when called upon at any time not later than the thirty first day of March, 1910, a further sum of twenty thousand pounds (hereinafter referred to as the "third loan") with interest at three and a half per cent per annum:

AND WHEREAS it has been agreed between the two said Governments to convert the said first, second, and third loans into one consolidated loan bearing interest at the rate of three and a half per cent per annum from and including the first day of April 1910 and repayable at the expiration of twenty-five years from such date:



AND WHEREAS it is expedient to make provision for charging the said consolidated loan on the general revenue and assets of Swaziland and for the payment of interest thereon and for the repayment of the said consolidated loan:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by Her late Majesty under the Order-in-Council relating to Basutoland of the second day of February 1884 and the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:

1. (1) The said first, second and third loans shall from the first day of April 1910 be converted into one consolidated loan of eighty thousand pounds repayable as hereinafter provided within a period of twenty-five years from the said date.
- (2) Interest on the said consolidated loan calculated from the first day of April 1910 at the rate of three and a half per cent per annum shall be paid by the Resident Commissioner of Swaziland to the Resident Commissioner of Basutoland in half yearly instalments and such interest shall become due and payable on the thirtieth day of September and the thirty-first day of March in each and every year.
- (3) The amount of the said consolidated loan and the interest payable thereon together with the sinking fund payments hereinafter provided for

- shall -

shall be charged upon and be payable out of the general revenue and assets of the territory of Swaziland and shall from the first day of April 1910 be a first charge thereon.

2. If at any time interest on the said consolidated loan shall remain unpaid for a period of three months after it has become payable, the Resident Commissioner of Basutoland shall have the right to claim immediate repayment of the whole of the said loan still unpaid or of such portion thereof as he may think fit together with all interest due on the said loan.

3. For the purpose of the formation of a Sinking Fund for the repayment of the loan, so long as any portion of the said loan remains unredeemed, there shall be set aside out of the revenues of Swaziland on the first day of April 1910 and on the first day of April in each following year, a sum of not less than Two pounds eleven shillings and fourpence per cent on the total nominal amount of the loan, but exclusive of any portion of the loan which may have been repaid at any time before the first day of April 1935. The money so set aside shall be invested in the names of the Crown Agents for the Colonies in the purchase of such securities as may from time to time be approved by His Majesty's Principal Secretary of State for the Colonies, and the dividends, interest or produce of such investments, shall also be invested in the purchase of like securities, and with the approval of the Secretary of State any investments made may be changed from time to time, and the Fund so created shall be held in trust for the repayment of the loan.

If any portion of the loan has been repaid, it shall be determined what amount of the Sinking Fund created for the extinction of such portion of the loan shall be released, and in the determination of such question, there shall be taken into consideration the whole investments held on account of such Sinking Fund the amount of the debt remaining a charge on such Sinking Fund, and such matters as it may be thought fit to take into account.

So much of the Sinking Fund as may be released may be disposed of in such manner as the Secretary of State may direct.

4. The Resident Commissioner of Swaziland with the approval of the High Commissioner and subject to three months notice in writing to the Resident Commissioner of Basutoland shall have the right at any time before the expiration of the said period of twenty-five years, to repay the whole or any portion of the said consolidated loan together with any interest due thereon provided that no amount so repaid shall except with the consent of the Resident Commissioner of Basutoland be less than five thousand pounds.

5. This Proclamation may be cited for all purposes as the Swaziland Consolidated Loan Proclamation and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G

GIVEN under my hand and seal at Johannesburg  
this thirty-first day of March, One thousand Nine  
hundred and ten.



*S. J. M. M. M.*

High Commissioner.

By Command of His Excellency

The High Commissioner.

*C. M. M. M.*

Imperial Secretary.

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20.7 of 1910.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

SANCTIONED.

WHEREAS by Executive Council Resolution of the Government of the late South African Republic Article 62, dated the 19th January 1898, an annual tax of ten shillings was made a condition of the sale of Erven in the village of Brummersdorp Swaziland;

AND WHEREAS it is desirable to remit certain arrears due in respect of the tax so levied on Brummersdorp Erven, and to make better provision for the future payment thereof.

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty by the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. All arrears due to the Government of Swaziland up to the first day of January 1910 in respect of taxes payable on Brummersdorp Erven sold, by virtue of Executive Council Resolution of the Government of the South African Republic Article 62 dated the 19th January 1898 shall be and are hereby remitted;

2. The tax of ten shillings per annum levied as aforesaid shall become due and payable on the first day of January of each year provided, however that the tax due in respect of the year 1910 shall be paid before the first day of July 1910. The provisions of



Section six of High Commissioner's Proclamation No.24 of 1909 in regard to the collection of overdue quit-rents payable on stands in the Township of Mbabane shall apply mutatis mutandis in respect of the collection of the overdue taxes payable on Brenersdorp Town in terms of the said Executive Council Resolution Article 68 and this Proclamation.

3. This Proclamation shall take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Pretoria*  
this *fifth* day of *April* One Thousand Nine  
Hundred and Ten.

*S. J. M. M.*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. J. M. M.*

Imperial Secretary.



PROCLAMATION

SANCTIONED.

By His Excellency The High Commissioner.

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WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Lands;

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council 1908 I do hereby declare proclaim and make known as follows:-

The area of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown lands and shall be registered and known as Lot No.2 Peak District, Swaziland; provided always that

the Proclamation of the said area as Crown lands shall not affect any lease servitude or other right subsisting in respect of the said area which is registered at the date of such publication and is not vested in the Crown.

GOD SAVE THE KING !

Given under my Hand and Seal at *Pretoria*

this *fifth* day of *April* One thousand  
Nine hundred and Ten.

*Sellmeier*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.



SCHEDULE

The area known as Lot No.2 Peak District,  
Swaziland, according to the approved diagram S.G.  
No.S.34/10 in extent 10,968 morgen 518 square rods,  
comprising a portion of expired Land Concession No.155  
and the Unallotted Land U.I. to the North of Land  
Concession No.155.

No. 11 of 1910.]

128011

SANCTIONED.

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to consolidate and amend the law relating to the use of water in Swaziland and to provide further facilities for the use of the same for irrigation mining and other industrial purposes;

And whereas concessions were granted by or on behalf of the late King or Paramount Chief of Swaziland conferring rights to land rights to minerals rights of grazing and the like on different persons over the same area;

And whereas certain of such concessions purport to give exclusive rights to water over such areas but it has been held by the courts of Swaziland that such concessions only confer the right to the use of water for the main objects of the concessions;

And whereas it is expedient to define and regulate the rights of persons holding rights to water under concessions to prevent confusion and to enable such rights to be exercised without interference;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

#### PRELIMINARY.

1. Law No. 11 of 1894 and Ordinance No. 67 of 1903 of the Transvaal shall be and are hereby repealed as regards their application to Swaziland.

2. In this Proclamation, unless inconsistent with the context,

“arbitration” shall mean arbitration in accordance with the (Transvaal) Arbitration Ordinance 1904 or any amendment thereof;

“area” shall mean and include

- (1) any piece of land the subject of a concession by which rights to land or any use thereof or to minerals or timber are conferred;
- (2) any piece of land held under a grant of freehold title made under section seven of the Swaziland Concessions Partition Proclamation 1907 or otherwise or a deed of transfer of such grant;
- (3) any piece of land vested in the Crown as Crown land;
- (4) any piece of land set apart for the exclusive use and occupation of natives;

but shall not include any sub-division of any such piece of land;

“beneficial use” of water shall mean the use of water for the support of the life of human beings or domestic animals for the irrigation of land in order to increase vegetable growth for mining or other industrial purposes;

“board” shall mean a board as constituted in Chapter III;

“concession” shall mean any grant of land or the use thereof for agricultural mining or grazing purposes or any grant of minerals mineral products or timber made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908 and shall include any rights originally included in any such grant so made and confirmed which has become vested in or been expropriated on behalf of the Crown whether or not such grant has been cancelled;



"date" or "dated" as applied to a concession or right shall refer to the date on which such concession or right was granted or created such date in the case of concessions to which section *twenty-five* of the Swaziland Administration Proclamation 1904 applies being determined in accordance with the provisions of that section; provided however that in the case of concessions confirmed by the High Commissioner under Proclamation No. 63 of 1908 such terms shall refer to the date of such confirmation and in the case of rights originally granted by a concession which has become vested in or been expropriated on behalf of the Crown such terms shall refer to the date of such concession whether or not such concession has been cancelled and in the case of a freehold title issued under section *seven* of the Swaziland Concessions Partition Proclamation 1907 such terms shall refer to the date of the concession on which such title is founded and in the case of rights attaching to a native area such terms shall refer to the date of the concession granting the land or the use of the land on which the native area is demarcated;

"irrigation work" shall mean and include

- (a) a canal channel reservoir embankment weir dam or other work constructed or installed for or in connection with the impounding storage passage drainage or use of water including the use of water for developing power;
- (b) any land occupied by the Swaziland Administration or a proprietor for or in connection with the impounding storage passage drainage or any other use of water including any area occupied for the purpose of being irrigated; and
- (c) gauge posts measuring weirs and other appliances erected or used by the Swaziland Administration;

"land proprietor" shall mean the proprietor of a land right; provided that the Resident Commissioner shall be deemed to be the land proprietor of native areas in trust for the natives entitled to the use of the same;

"land right" shall mean and include

- (a) the right to land derived from a concession making a grant of land;
  - (b) the right to land derived from a concession giving a lease of land or a grant of land for a limited period;
  - (c) the right to land derived from a freehold grant of land made under section *seven* of the Swaziland Concessions Partition Proclamation 1907 or otherwise;
  - (d) any right of the Crown to land vested in the Crown as Crown land whether under a concession or otherwise;
  - (e) the right of natives to the use and occupation of any native area;
- but shall not include any right to graze or to cut timber on any land;

"mineral concession" shall mean a concession giving a right to precious or base metals precious stones minerals or mineral products on any area;

"native area" shall mean any piece of land set apart for the exclusive use and occupation of natives under the Swaziland Concessions Partition Proclamation 1907;

"normal flow" shall mean the average flow of a public stream during the period from the first day of May to the last day of October, as determined by the Resident Commissioner or any person appointed by him;

"proprietor" shall include land proprietor and shall mean any person in whose name is registered in the Deeds Office of Swaziland any concession carrying rights to water or any land right; and if such person has disposed of the whole or part of his rights by lease or other document registered against title it shall include the person registered as the holder of such lease or document; it shall further include the legal representative of any such person who has died become insolvent is a minor or is of unsound mind or is otherwise under disability;

"public stream" shall mean a natural stream of water

(a) which in ordinary seasons flows in a known and defined channel (whether or not such channel is dry during any period of the year); and

(b) which is capable of being applied to the common use of riparian proprietors.

A stream of water which fulfils these conditions as to part of its course only shall be deemed to be a public stream only as regards such part.

"regulation" shall mean any regulation made under section *forty-seven* of this Proclamation;

"riparian area" shall mean an area through which or along the boundary of any portion of which a public stream flows.

A sub-division of a riparian area shall derive its riparian rights from the riparian area of which it originally formed a portion. A sub-division through which or along the boundary of any portion of which a public stream flows shall have riparian rights unless excluded in the deed of transfer or by agreement registered against the title. If a public stream does not flow through or along any portion of a boundary of a sub-division, such sub-division shall have riparian rights only if such rights have been acquired by deed of transfer agreement order of a competent court or other valid mode of acquisition.

"riparian proprietor" shall mean the proprietor of a riparian area or a sub-division of the same having riparian rights;

"storm water" shall mean any water in a stream in excess of the normal flow;

"surplus water" shall mean any portion of the normal flow of a stream which not being required by the riparian proprietors would ordinarily run to waste.

3. This Proclamation is divided into chapters relating to the following matters respectively:—

Chapter I.—Powers of the Administration in regard to public streams and water.

Chapter II.—Use of public and private water.

Chapter III.—Boards of adjustment.

Chapter IV.—Expropriation of land and acquisition of servitudes.

Chapter V.—General.

## CHAPTER I.

POWERS OF THE ADMINISTRATION IN REGARD TO PUBLIC  
STREAMS AND WATER.

4. The High Commissioner may from time to time appoint such officers as may be necessary for the better carrying out of the provisions of this Proclamation, and such officers shall be subject to the direction and control of the Resident Commissioner.

The High Commissioner may by the Resident Commissioner or other officers

- (a) establish or maintain hydrographic stations and record the observations made thereat;
- (b) construct control extend alter maintain and repair irrigation works;
- (c) sink boreholes and wells and obtain from underground sources supplies of water and conserve the same when obtained;
- (d) obtain and record information as to the extent of land in Swaziland under irrigation the quantity of water used for the same and the amount nature and value of crops raised thereby and generally obtain and record information and statistics as to the hydrographic conditions of Swaziland;
- (e) advise proprietors as to the construction alteration maintenance or repair of irrigation works and assist therein; and generally assist in and advise on matters affecting the irrigation of land on conditions prescribed by regulation and charge fees for the assistance and advice on a scale to be prescribed by regulation;
- (f) inspect any irrigation work or the course of any public stream and order any person to do such acts and execute such repairs with respect to his irrigation works as may be deemed necessary in the public interest, and in default of compliance within the time specified in such order execute the same and recover the cost of such execution from the person making such default.

5. (1) The High Commissioner may by the Resident Commissioner or other officers from time to time

- (a) construct or acquire any irrigation work which he may think necessary or desirable for the purpose of draining into or conserving or utilizing in any manner whatsoever any public stream or for abstracting storing or preventing the waste of subterranean water and may supply and distribute water or power from such work;
- (b) in such manner as may be prescribed by regulation assess levy and recover rates from the proprietor or occupiers of areas irrigated or irrigable or benefitting directly or indirectly by water from works constructed or acquired under this section or from persons using power from such works;
- (c) enter into agreements with proprietors or persons for the transfer or exchange of any right to land or the use thereof in commutation of the rates payable by such proprietors or persons under this section;
- (d) exercise general supervision over all public streams in Swaziland protect the sources of supply of any public stream and if he deems it necessary or expedient cause the channels of such streams to be cleansed deepened widened or otherwise improved; prevent the leakage or flow of any public water from the surface into subterranean channels; prevent any waste or any unlawful diversion abstraction storage or use of public water; cause to be removed any obstruction unlawfully placed in a public stream and prevent any unlawful act calculated to diminish the quantity of water in any part of a public stream;

- (e) supervise and regulate the diversion storage distribution and use of water of any public stream and prescribe a standard showing the area of land which can be effectively irrigated in respect of any particular kind of crop in any particular situation by a constant flow of water of one cubic foot per second; and in such manner as may be prescribed by regulation assess levy and recover rates from the proprietors or occupiers of areas benefiting from any action taken under this sub-section up to an amount sufficient to meet the expenditure incurred.

(2) The High Commissioner may authorize any person company or corporation to exercise any or all of the powers set out in paragraphs (a), (b) and (c) of sub-section (1).

(3) Nothing contained in this section shall be taken to authorize the High Commissioner to deprive any proprietor of rights to water held under any concession.

## CHAPTER II.

### USE OF PUBLIC AND PRIVATE WATER.

6. All water not being water of a public stream which rises naturally on any area or which falls or naturally drains on to the surface of any area shall so long as it remains on such area and does not join a public stream be private water and shall subject to prior-dated rights be the property of the land proprietor of such area. The utilization of such water for beneficial purposes shall be an improvement in terms of the Surface Rights Proclamation 1910.

7. All water other than storm water, which has joined or forms part of a public stream shall be public water the use of which shall be regulated by this Proclamation and in the absence of any special provision therein by the general law. There shall be no right of property in public water save as is otherwise provided in section sixteen in respect of stored water.

8. The right to the use of public water shall subject to prior-dated rights be vested in the land proprietor of a riparian area.

The holder of any concession carrying rights to water not being a concession granting a land right shall be entitled to the use of public water only for the main objects of the concession and on the expiration of such concession such right to the use of water shall *ipso facto* lapse.

9. As between the proprietors of any area rights to the use of water on such area shall take precedence according to the date of the right.

10. (1) Notwithstanding anything in the last preceding section in the event of the holder of a later-dated right to water requiring for the purpose of his concession or grant the use of public water which is not being beneficially used by the holder of a prior-dated right on the same area he may failing agreement with the holder of the prior-dated right and after notice to him apply to have his claim for a grant of the use of such water referred to the decision of a board. The board to which the claim is referred shall inquire into the matter and on being satisfied that the use applied for does not interfere with any lawful beneficial use which the holder of the prior-dated right is making or may reasonably be expected in the near future to make of such water may grant such right of use for such time and subject to such conditions as it may deem expedient.

(2) In the event of the holder of a prior-dated right to public water requiring the use of water which has been granted to the holder of a later-dated right he shall be entitled to resume or obtain the right to use the same on payment to the holder of the later-dated right of such compensation as may be agreed upon or failing agreement as a board may determine on application made by the holder of the prior-dated right.

(3) The provisions of section *forty-three* in regard to registration shall apply *mutatis mutandis* to agreements or grants under sub-section (1) of this section, and to rights resumed or obtained on payment of compensation under sub-section (2).

11. (1) No person having a right to the use of water on native areas under a mineral concession shall exercise such right except subject to the directions and supervision of the Resident Commissioner or other officer appointed by him.

(2) The distribution of water between natives on native areas shall be regulated by the Resident Commissioner or other officer appointed by him in such manner as may appear just and expedient.

(3) Any person who wilfully neglects to comply with any direction or order given by the Resident Commissioner or other officer appointed by him with respect to the use or distribution of water on a native area shall be guilty of an offence against this Proclamation.

12. Every riparian proprietor shall subject to section *nine* and the other provisions of this Proclamation be entitled to divert a reasonable quantity of public water for his beneficial use provided that he returns the same with no diminution other than is caused by such use to the public stream from which it is diverted at a definite place within the boundaries of his area unless in accordance with the provisions of Chapter IV he has obtained permission to return it outside his area.

In determining what is a reasonable quantity or use of water regard shall be had to such circumstances as the relative extent of the upper and lower riparian areas and the population thereof the extent and situation of the ground irrigated or capable of being irrigated or of the minerals worked or capable of being worked the extent of river frontage of riparian areas the method of user the flow of the stream and the rainfall.

13. No person shall have the right to use public water to develop water power without the permission of the Resident Commissioner who may subject to the provisions of this Proclamation or any regulations grant permission in writing for such use on terms and conditions to be specified by him.

14. All rights to storm water in public streams shall vest in the High Commissioner and the Resident Commissioner may subject to regulation grant permission in writing to store or divert such water for any purpose and for such period as he may think fit provided that no such permission shall be given if thereby the use of such water under any previous permission under this Proclamation would be interfered with unless the consent of the holder of such permission has been obtained.

Any riparian proprietor may use the storm water in a public stream as if it were portion of such public stream so long as it is not claimed by the High Commissioner; but the use thereof shall vest no right in such water against the High Commissioner by way of prescription or otherwise.

15. (1) The Resident Commissioner may grant permission in writing for the diversion of surplus water in a public stream

(a) on to non-riparian areas within the catchment area of such stream; or

(b) across the watershed of such stream on to another catchment area in which the surplus water can be put to beneficial use; provided that

(i) a riparian proprietor is not thereby deprived of water necessary either for land which is at the time under irrigation or might thereafter reasonably be expected to be brought under irrigation; or for the working of minerals which are or might thereafter reasonably be expected to be worked;

(ii) in the grant of the permission preference shall be given to the areas described in paragraph (a) of this sub-section.



(2) The permission referred to in this section may be granted upon application made to the Resident Commissioner in accordance with regulation and shall be subject to such conditions and continue in force for such number of years as the Resident Commissioner may think fit and such diversion of surplus water from a public stream shall not be lawful save in accordance with such permission.

16. (1) Permission in writing may in like manner be granted by the Resident Commissioner subject to the provisions of this Proclamation and the regulations to any person to store the surplus water of a public stream and the storage of surplus water in a public stream shall not be lawful unless such permission has been granted.

(2) Every person authorized under this section to store surplus water shall be entitled to the property in such water and notwithstanding that the surplus water so stored be left to mingle with the other water in a public stream.

17. (1) Any diversion or storage of surplus water under the last two preceding sections shall be at a place described in the permission which shall also specify

- (a) in the case of diversion the line of passage of the water;
- (b) the nature of the diversion or storage works;
- (c) the amount of compensation (if any) to be paid to any proprietor on whose area it is stored or through or over whose area the surplus water is diverted or conveyed for storage;
- (d) the amount of surplus water which may be stored or diverted.

(2) The Resident Commissioner shall not grant any permission for the diversion or storage of surplus water if the grant would interfere with the use enjoyment or exercise of any permission or right to divert or store surplus water previously granted or held under this Proclamation unless the consent of the holder of such permission or right has been obtained.

18. (1) Whenever a public stream which formed the boundary between two or more areas changes or has changed its course the boundaries of such areas shall not be thereby changed nor shall a change in the course of such stream constitute a riparian proprietor a non-riparian proprietor.

(2) A riparian proprietor may apply to the Resident Commissioner to fix a point or points on the changed course of the stream to which he shall have access and at which he may take the water thereof subject to the provisions of section *twelve* hereof and further to fix the line along which such water may be so diverted and taken. The Resident Commissioner may grant the application on such terms as to him may seem just.

(3) Whenever a riparian proprietor has been injuriously affected by any such change in the course of a public stream he may make written application to the Resident Commissioner for permission to construct works necessary to restore the stream to its former course.

(4) The Resident Commissioner shall if satisfied that the riparian proprietor has been so injuriously affected and subject to any rights lawfully acquired in respect of the changed course grant the permission but may attach thereto conditions as to the nature of the work to be constructed and the time within which it shall be completed.

### CHAPTER III.

#### BOARDS OF ADJUSTMENT.

19. (1) Where any person makes application in writing to the Resident Commissioner to have any question or matter referred to the decision of a board, the Resident Commissioner if satisfied

- (a) that such question or matter may under this Proclamation be determined by a board otherwise than under the provisions of paragraph
- (b) or (c) of section *twenty-seven*;

- (b) that the applicant is interested in such question or matter, and that the application for the reference of such question or matter to the decision of a board is not under this Proclamation required to be made by some person other than the applicant;
- (c) that any notices with respect to such question or matter required under this Proclamation ~~have been duly given~~ have been duly given;

shall either

- (i) constitute a board which shall be called a Board of Adjustment in the manner hereinafter mentioned and refer such question or matter to the decision of such board; or
  - (ii) refer such question or matter to the decision of any board already constituted under this Proclamation.
- (2) The Resident Commissioner may further of his own motion either
- (i) constitute a board in the manner hereinafter mentioned to undertake any work or inquiry which the Resident Commissioner has power under paragraph (b) or (c) of section *twenty-seven* of this Proclamation to require a board to undertake; or
  - (ii) require any board already constituted under this Proclamation to undertake any such work or inquiry.

20. A Board of Adjustment shall consist of an assistant commissioner having jurisdiction over the district in which the question or matter to be dealt with has wholly or partly arisen, or other person specially appointed by the High Commissioner, who shall be president, and of two other members hereinafter called the unofficial members. The unofficial members shall be selected by the Resident Commissioner from a list published in the *Gazette* of persons approved by the High Commissioner as qualified to be unofficial members of a board. The persons whose names are so published shall be persons residing or holding property in Swaziland and not members of the Public Service thereof.

The Resident Commissioner shall use his discretion in the selection of unofficial members of any board having regard to the nature of the question or matter in dispute and the parties concerned.

21. All questions or matters requiring to be decided by a board shall be decided by a majority of votes. Every unofficial member of a board shall before entering upon his duties take an oath or make a solemn affirmation before the president that he will well and faithfully perform his duty as a member of such board. Every board shall keep minutes of its proceedings which shall be signed by the president.

22. No member of a board shall be related within the third degree of consanguinity or affinity to any party to a dispute to be determined by the board or shall have an interest in any question or matter dealt with by such board and any unofficial member may be required by any party, before beginning or continuing his duties, to make a sworn declaration that he is not so related and that he has no interest in the question or matter before the board; provided that any party may expressly waive any right to object to any member of a board on the grounds of his being so related or having such interest; provided further that no decision or award which is just and reasonable shall be invalid only on the ground that a member of the board was so related or was interested in the question or matter in regard to which such decision or award was given.

23. (1) In respect of questions or matters referred to it under this Proclamation a board shall have the powers of a court of assistant commissioner in the way of summoning parties witnesses and the like but without limit of jurisdiction. Such powers may pending the constitution or sitting of a board be exercised in the name of the board by an assistant commissioner authorized thereto by the Resident Commissioner.

(2) An award or order of a board and any decision of a board other than a decision contained in a report made under paragraph (c) of section *twenty-seven* shall have the force of a judgment of a court of assistant commissioner in matters within the board's jurisdiction.

(3) Where an assistant commissioner is president of a board the officers of the court of such assistant commissioner and where an assistant commissioner is not president such persons as may be appointed by the Resident Commissioner shall act as officers of such board.

(4) Any notice award order or decision signed by the president of a board shall *prima facie* be deemed to be an order notice award or decision of the board.

(5) The Resident Commissioner shall cause to be published in the *Gazette* any award order or decision given in respect of any question or matter referred to a board under paragraph (b) of section *twenty-seven* and a copy of the *Gazette* containing any such award order or decision shall be *prima facie* evidence of the contents thereof and that the same has been duly given.

(6) The Resident Commissioner shall also cause any such award order or decision as is in the last preceding sub-section mentioned to be filed with the Registrar of Deeds who shall keep a register thereof and note the same on the folios of the register wherein the land rights or other rights affected are recorded.

24. The unofficial members of a board shall be paid as remuneration for each day's sitting at the same rate as the members of a liquor licensing court and shall receive travelling allowance in which shall be included travelling for the purpose of holding a local inspection and subsistence allowance at the rate allowed for witnesses in the courts of assistant commissioners.

Such remuneration and allowances shall be payable to the members by the Swaziland Administration and the amount thereof as certified by the Government Secretary may be recovered by the Administration by execution without further process from the party or parties liable to pay the same under any order for the payment of costs made by the board.

25. A board may make such order as it deems fit in regard to the payment of the costs of any proceedings before it including the remuneration and allowances paid by the Swaziland Administration to the unofficial members of the board by any of the parties to such proceedings. Unless and until otherwise provided by regulation the costs between party and party shall be according to the tariff for the time being in force in respect of proceedings in the courts of assistant commissioners.

26. (1) No action shall be maintainable before any court of law in respect of the questions or matters which may be referred under this Proclamation to a board otherwise than under paragraph (c) of section *twenty-seven* save such action as is mentioned in sub-section (2) of this section unless the parties thereto have agreed in writing that such question or matter shall be submitted to a court of law; provided however that in respect of any question or matter which cannot be referred to a board otherwise than under paragraph (b) of section *twenty-seven* an action shall be maintainable, unless such question or matter has been referred by the Resident Commissioner to a board and notice to that effect has been published in the *Gazette* before the date at which the action is commenced.

(2) An action may be brought in any competent court by any person who is aggrieved by failure to carry out any award order or decision of a board which has the force of a judgment of a court of assistant commissioner and in such case the court may enforce such award order or decision and may award damages and may further impose such penalty for wilful disobedience to such award order or decision as it may consider just and reasonable.

27. The general powers and duties of a board shall be

- (a) to investigate any question or matter referred to it under this Proclamation by the Resident Commissioner on the application of any party interested and to make an order or give an award or decision thereon;
- (b) if required so to do by the Resident Commissioner,
  - (i) to investigate define and record the rights to the use of the water of any stream channel reservoir or source of supply and to apportion the water for irrigation or other purposes where such rights have not been defined or such apportionment made by a competent court or by arbitration or in any other legal manner;
  - (ii) to determine and fix the place or places either upon his area or on the area of another at which any proprietor shall be deemed to have a right to the use of the water and to determine the nature and extent of such use at such place or places with due regard to the rights of other proprietors;
- (c) if required so to do by the Resident Commissioner, to report for his information
  - (i) on the use or waste of water diverted or abstracted from any stream or on any matter arising out of the provisions of this Proclamation;
  - (ii) on the removal of or interference with any dam weir or other construction in the course of a public stream including if the removal or interference is recommended the compensation (if any) to be paid to any person affected thereby;
  - (iii) to investigate define and record in the case of any stream whose character has not already been defined by a competent court whether such stream is a public stream or not.

The Resident Commissioner shall in requiring a board to undertake any such work or inquiry as is mentioned in paragraph (b) or (c) of this section act according to his sole discretion.

28. (1) There shall be an appeal to the Resident Commissioner from any award or order of a board and from any decision of a board other than a decision contained in a report made under paragraph (c) of section *twenty-seven*. Such an appeal may be made by any party to the proceedings in the course of which such award order or decision has been given, and in the case of any award order or decision given in respect of any question or matter referred to a board by the Resident Commissioner under paragraph (b) of section *twenty-seven* by any party aggrieved thereby.

(2) Notice of such appeal shall be given by the party appealing to the Resident Commissioner and to the other parties (if any) to the proceedings in the course of which the award order or decision appealed against has been given

- (a) in the case of any award order or decision given in respect of any question or matter referred to a board otherwise than under paragraph (b) of section *twenty-seven* within twenty-eight days of such award order or decision or within such further period as the Resident Commissioner may on application allow;
- (b) in the case of any award order or decision given in respect of any question or matter referred to a board under sub-section (b) of section *twenty-seven* within two months after publication in the *Gazette* of such award order or decision or within such further period as the Resident Commissioner may upon application allow.

(3) The Resident Commissioner may on application made to him by the party appealing grant stay of execution of the award or suspend the operation of the order or decision appealed against pending the hearing of the appeal on such terms and conditions as he thinks just.

(4) The Resident Commissioner may call for a report from the president of the board upon the reasons for its decision or hear further evidence or make a local inspection or obtain expert advice. He may confirm set aside or vary the decision of the board and make such order in regard to costs as he thinks fit.

(5) The decision of the Resident Commissioner shall have the force of a judgment of his court and the costs shall be taxed as the costs of an appeal in such court.

(6) The decision of the Resident Commissioner shall be final save that the High Commissioner shall have power to set aside or amend the same within two months from the date of such decision.

29. Provision may be made in the regulations for all matters of procedure before a board and before the Resident Commissioner on appeal from a board.

In default of provisions in this Proclamation or the regulations a board and the Resident Commissioner on appeal from a board may follow such procedure as appears to them respectively just and reasonable.

#### CHAPTER IV.

##### EXPROPRIATION OF LAND AND ACQUISITION OF SERVITUDES.

30. If at any time the High Commissioner shall require or deem it expedient to take or use any land including the bed of any river stream or tributary for the purpose of constructing thereon any irrigation work it shall be lawful for the Resident Commissioner in case he shall fail to agree with the land proprietor or other parties interested therein as to the terms on which such land may be taken or used to take appropriate and use such land for the purpose aforesaid and the proprietor thereof and all persons having an interest therein shall thereupon become entitled to compensation to be settled in default of agreement by arbitration.

31. The Resident Commissioner or other officer appointed by him shall at least six weeks before entering on the land to be expropriated give notice to the proprietor thereof or other persons having an interest therein describing the land which it is proposed to expropriate and stating the amount of compensation offered.

32. (1) For the purposes of this chapter any person entitled to the use of the water of a public stream at any point on its course shall be deemed to have the right to use it at any other point on the course of such stream but before exercising such right he must acquire or be granted the servitudes necessary for such use.

(2) Any person having a right to the use of water or being entitled to supervise or control the use of water may subject to his willingness to pay compensation as herein-after provided claim temporarily or in perpetuity a servitude of storage of water a servitude of passage or a servitude of abutment or all such servitudes;

Provided that

- (a) the period of a temporary servitude shall be a definite number of years or for so long as it is used for the purposes for which it is granted with or without further specification of the period;
- (b) no proceedings shall be taken for the acquisition of any such servitude while legal proceedings or proceedings before a board are pending as to the right to the water in respect of which the servitude is claimed;
- (c) no such servitude shall give the person acquiring it a proprietary interest in respect of the area on over or through which it is exercised and no encumbrance attaching to such area shall be affected thereby.



33. (1) "Servitude of storage" shall mean the right to occupy land belonging to another by submerging it with water by means of a dam or weir or other works and shall include a right of passage over the land and along the boundary of and throughout the particular area subject to the servitude for the purpose of maintaining and cleansing such works or for any other purpose necessary for the effective enjoyment of the servitude.

(2) A servitude of storage shall not subject to the terms of any award or agreement establishing it deprive any proprietor of the area subject to the servitude of the use of that part of the area which is not submerged; provided such use is not detrimental to the enjoyment of the servitude.

(3) A servitude of storage shall give the holder thereof a prior claim to surplus water over servitudes subsequently acquired.

(4) When a permanent servitude of storage has been acquired the land proprietor of the area over which the servitude has been acquired may before the commencement of the storage work and on payment of his proportion of the cost thereof (to be determined in case of dispute by arbitration) demand and thereafter shall be entitled to receive the benefit of the storage work in the proportion which the capacity of that part of the reservoir which is on the area subject to servitude bears to the total capacity of the reservoir.

34. (1) "Servitude of passage of water" shall mean the right to occupy so much land belonging to another as may be necessary for or incidental to the passage of water and shall include a right to construct irrigation works necessary for such passage on such land and over under or alongside another irrigation work or to enlarge an existing irrigation work.

(2) The servitude shall include the right of access to any area (after notice to the proprietor thereof) for the purpose of constructing inspecting maintaining and repairing such works.

(3) The proprietor of any area over which the servitude exists may pass along such works any water to which he is entitled on payment of such proportion of the cost of constructing enlarging and maintaining such works and on such other terms as may be agreed upon or failing agreement as may be determined by a board.

(4) In exercising such servitude across a public road the holder thereof shall construct such works as will prevent danger or inconvenience to the public and shall keep the same in repair the manner of construction and repair being prescribed by the Resident Commissioner or other officer appointed by him.

35. (1) "Servitude of abutment" shall mean the right to occupy by means of a dam or weir the bed or banks of a public stream or land adjacent thereto belonging to another.

(2) The proprietor on whose ground a servitude of abutment exists may before or after the construction of the dam or weir is commenced demand the right to lead therefrom such water as he may be entitled to take from the public stream and may thereafter obtain such right on paying to the holder of the servitude such proportionate cost of the dam or weir as may be agreed or failing agreement as may be determined by a board.

36. Every servitude described in this chapter shall include a right to take stones sand earth gravel or clay from the land over which the servitude exists for the purpose of constructing maintaining or repairing any irrigation works thereon; provided that no such materials shall be taken from any house or other structure mining works open quarry or cultivated lands without the permission of the owners thereof.

37. Any person who by paying a proportion of the cost of constructing any irrigation work as provided in sections *thirty-three thirty-four or thirty-five* has acquired the right to use the same shall be liable to pay a like proportion of the cost of its maintenance and repair unless or until exempted therefrom by agreement or order of court.

38. Every person who under this chapter constructs works for the passage of water which

- (a) prevent any proprietor passing freely over or on to any area of which he is the proprietor; or
- (b) check the circulation of water in the irrigation or drainage of any area or interfere with the mining thereof

shall construct and maintain in repair

- (i) such bridges and other works as will make communication safe and convenient; and
- (ii) such culverts aqueducts and other works as are necessary to secure the free circulation of such water or prevent interference with such mining

unless he shall be exempt from such duty by agreement or other lawful cause.

39. (1) A servitude described in this chapter may be claimed by serving written notice upon every proprietor of the area on or over which the servitude is desired demanding the servitude and specifying the following particulars namely:—

- (a) The line of passage along which the water is to be conducted or diverted.
- (b) The locality on which the water is to be stored.
- (c) The nature and locality of the works to be constructed.
- (d) The compensation offered.
- (e) The period of the servitude.

(2) If such proprietors shall not within one month after service of such notice agree to the claim and the particulars specified in the notice the claimant may apply to have his claim referred to the decision of a board and shall serve a copy of the application upon such proprietors.

(3) If the area over which the servitude is claimed is subject to a registered mortgage or lease the claimant shall further serve upon the mortgagee or lessee (as the case may be) the notice and copy of application required to be served on the proprietors.

(4) Every such mortgagee or lessee shall have the right to appear as a party before a board on the hearing of the claim and shall if he so appears have all the privileges belonging to and be subject to all the obligations imposed or which may be imposed on a party to proceedings before a board under this Proclamation or the regulations.

40. (1) A board upon the hearing of such claim may

- (a) award the same with or without modifications and subject to such conditions as it deems just;
- (b) award or refuse to award compensation for the right of servitude granted;
- (c) if the area over which the servitude is claimed is subject to a registered lease award compensation to the lessee for any loss or damage he is likely to sustain by the exercise of the right of servitude;
- (d) if the area over which the servitude is claimed is subject to a mortgage and the mortgagee claims a share of any compensation awarded determine the claim of the mortgagee and the amount (if any) of his share of the compensation;

(e) dismiss the claim but on the following grounds only, namely,

- (i) that the servitude claimed does not fall within the provisions of this chapter; or
- (ii) that the object for which the servitude is claimed could be better attained in another manner; or
- (iii) that the claim is not made in good faith; or

- (iv) that the objects for which the servitude is claimed are not of sufficient agricultural or other utility to justify the acquisition of the servitude; or
- (v) that the works appertaining to the servitude will interfere with the development of irrigation or mining in the locality; or
- (vi) that the damage likely to be caused by the proposed works would be greater than the benefits that would be derived therefrom.

(2) Compensation awarded by a board for a temporary servitude shall not exceed an annuity equal to the rental value (as nearly as can be ascertained) of any of the land or portion of the area to be actually occupied by the work contemplated together with an annual sum for actual inconvenience or loss likely to be suffered by the exercise of the right of servitude.

(3) Compensation awarded by a board for a permanent servitude shall not exceed an amount equal to the average market value (as nearly as can be ascertained) of the land or portion of the area to be actually occupied by the work together with an annuity for actual inconvenience or loss that may be suffered by the exercise of the right of servitude or in lieu of such annuity an amount not exceeding twenty times such annuity.

41. A person who under this chapter holds a temporary servitude may claim an award of a board converting it into a permanent servitude subject to the payment of such compensation to the proprietor of the area on or over which the temporary servitude exists as may be determined by a board. The provisions of sections *thirty-nine* and *forty* shall so far as applicable apply to a claim for conversion under this section.

42. Any servitude acquired under this chapter shall lapse if the work specified in the particulars of the claim be not completed within three years from the date of acquisition by agreement or of the award of a board or within any extended period that may be agreed or that a board may have fixed on the hearing of the claim.

43. (1) No servitude acquired or awarded under this chapter shall be binding upon others than the original parties thereto until registered against the title of the area on or over which it has been so acquired or awarded and if the regulations so require in such other manner as may be prescribed thereby.

(2) The Registrar of Deeds upon the production of the agreement between the parties or of the award of a board or of certified copies of such agreement or award in either case accompanied by a diagram of an admitted surveyor showing the situation of the servitude shall register such servitude and diagram upon the titles of the areas in favour of and over which it has been so acquired or awarded; provided however that the Registrar shall not be required under this section to register any agreement unless such agreement is in his opinion reasonably free from ambiguity and provided further that the Registrar shall not register any servitude awarded by a board until after the expiration of the period within which notice of appeal to the Resident Commissioner from such award is required to be given under section *twenty-eight* or where such notice has been given until the award of such servitude has been confirmed on appeal.

(3) The proprietors of the areas over which such servitudes have been so acquired or awarded shall on being required so to do by the Registrar produce their title-deeds for the purpose of such registration and failure to produce such title-deeds shall be deemed to be an offence against this Proclamation.

(4) A certified copy of an agreement or award shall mean a copy certified as correct by an assistant commissioner notary or attorney.

## CHAPTER V.

## GENERAL.

44. (1) The Resident Commissioner or any person or persons acting under his authority may after notice to the proprietors enter upon any area with such men animals vehicles appliances and instruments and do all such acts thereon as are necessary for or incidental to the exercise of the powers conferred or the performance of the duties imposed by this Proclamation upon the High Commissioner the Resident Commissioner or any other officer; provided that

- (a) no such person shall enter any building or any enclosed yard attached to a dwelling except with the consent of the occupant thereof;
- (b) as little damage as possible shall be caused to any area by the exercise of the powers of this section and compensation shall be paid by the Swaziland Administration for all damage so caused the amount thereof if not mutually agreed being determined by arbitration.

(2) The Resident Commissioner a board or persons authorized in writing by them shall to the extent necessary for exercising the jurisdiction of the Resident Commissioner or board under this Proclamation have the right of entry upon any area with the powers incidental thereto mentioned in sub-section (1) subject to the restrictions and obligations in the said sub-section provided.

(3) Any person who prevents such entry on any area as is authorized by this section or who wilfully obstructs or hinders any person so authorized in lawfully carrying out his powers or duties under this Proclamation or the regulations shall be guilty of an offence.

45. Any notice order or other document required by this Proclamation or a regulation to be given to or served upon any person shall be deemed to be effectually served if delivered personally to such person or left at his abode or place of business or sent by registered letter to his address or if such person is absent from Swaziland and has left no known representative by publication in the *Gazette*. Service upon a person authorized to represent another shall be deemed to be service upon the person whom he represents; and in the case of a company or syndicate having no office or domicile in Swaziland any person in charge of its property shall be deemed to be its representative. Provided that nothing in this section shall prevent any person who has not been personally served with a notice document or other order from proving that through no fault of his own or his representative such notice document or other order never came to his knowledge.

46. Any notice order or document issued by any official under this Proclamation shall be valid from the date of issue thereof notwithstanding any defect of form in the same or want of authority on the part of the official issuing or authenticating the same provided that the requisite authority is subsequently conferred upon such official.

47. The High Commissioner may from time to time by notice in the *Gazette* make alter or revoke regulations

- (a) for dealing with any matter which may by this Proclamation be dealt with by regulation;
- (b) for prescribing any forms of procedure to be used or followed for the purposes of this Proclamation;
- (c) generally for the better carrying out of the objects and purposes of this Proclamation.

48. (1) Any person who without lawful right or authority (the proof whereof shall lie upon him)

- (a) alters enlarges or obstructs an irrigation work or destroys defaces or moves any level mark beacon or other structure or appliance erected or made in connection with such work;



- (b) interferes with or alters the flow of or pollutes or fouls the water of an irrigation work or of a public stream or interferes with the distribution of such water or after notice to refrain from doing so takes more water than he is entitled to or uses it in a manner contrary to this Proclamation or the regulations;
  - (c) while using or being liable for the maintenance of an irrigation work to the prejudice of others wastes or does not take due precaution to prevent the waste of water from such work or fails properly to maintain the work and keep it in repair;
  - (d) wastes the water of a public stream;
  - (e) being a proprietor of an area after notice from the Resident Commissioner or other official authorized by him fails to put an end to waste of water resulting from the act of a tenant prospector or other person deriving rights from such proprietor and no longer present on such area;
  - (f) aids or abets or knowingly permits any such act or default;
- shall be guilty of an offence and liable
- (i) in the case of a first conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and imprisonment;
  - (ii) in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding eighteen months or to both such fine and imprisonment.
- (2) Any person who wilfully and maliciously commits any of the acts mentioned in paragraphs (a) or (b) of sub-section (1) shall be liable to a fine not exceeding one thousand pounds or to imprisonment with or without hard labour for a period not exceeding five years without the option of a fine.
- (3) Any person who contravenes a regulation or commits an offence against this Proclamation or any regulation made thereunder for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.
49. (1) Whenever any person is convicted by a court of an offence against this Proclamation or the regulations and it shall appear that such person has by that offence caused damage to any proprietor such court may at the written request of such proprietor but in the presence of the convicted person enquire summarily and without pleadings into the amount of damage so caused.
- (2) Upon proof of such amount such court shall give judgment therefor in favour of the proprietor and against the convicted person and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such court; provided that judgment shall not be given under this section for a sum exceeding the civil jurisdiction of such court.



50. This Proclamation may be cited as the Swaziland Water Proclamation 1910 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given ~~under~~ *under* my Hand and Seal  
at Pretoria this Eighth day of  
April one thousand Nine hundred  
and Ten.

*Sellors*

High Commissioner.

By Command ~~of~~ *of His Excellency*  
*The High Commissioner*

*C. H. Rodwell*

Imperial Secretary.



No. 12 of 1910.]

12

Sanctions

# PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS under various concessions granted by the late King or Paramount Chief of Swaziland different persons hold the right to minerals and the right to the surface of land over the same areas, and such rights in certain respects conflict with one another;

And whereas it is desirable that such persons should exercise their respective rights with the utmost mutual consideration;

And whereas it is desirable to make provision for the settlement of disputes where such rights conflict and the parties fail to come to an amicable arrangement as to the exercise of such rights;

And whereas it is desirable that the mining and agricultural resources of Swaziland shall be simultaneously developed;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

1. In this Proclamation unless inconsistent with the context

"board" shall mean a board constituted as provided in Chapter III of the Swaziland Water Proclamation, 1910, and the provisions of the said chapter shall apply *mutatis mutandis* and so far as not inconsistent herewith to a board under this Proclamation;

"concession" shall mean any grant of land or the use thereof for agricultural mining or grazing purposes or any grant of minerals mineral products or timber made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908, and shall include any rights originally included in any such grant so made and confirmed which has become vested in or been expropriated on behalf of the Crown whether or not such grant has been cancelled;

"date" or "dated" as applied to a concession or right shall refer to the date on which such concession or right was granted or created such date in the case of concessions to which section *twenty-five* of the Swaziland Administration Proclamation 1904 applies being determined in accordance with the provisions of that section; provided however that in the case of concessions confirmed by the High Commissioner under Proclamation No. 63 of 1908 such terms shall refer to the date of such confirmation; and in the case of rights originally granted by a concession which has become vested in or been expropriated on behalf of the Crown such terms shall refer to the date of such concession whether or not such concession has been cancelled; and in the case of a freehold title issued under section *seven* of the Swaziland Concessions Partition Proclamation 1907 such terms shall refer to the date of the concession on which such title is founded; and in the case of rights attaching to a native area such terms shall refer to the date of the concession granting the land or the use of the land on which the native area is demarcated;

- "improvement" shall mean any cultivated soil road dam furrow plantation crops buildings drainage fencing clearing or other work or structure by which the value of the land has been increased;
- "later-dated mineral concession" shall mean a mineral concession dated after the land grazing or other concession as the case may be over the same area;
- "mineral concession" shall mean a concession giving a right to precious or base metals, precious stones minerals or mineral products on any area;
- "mining" shall mean carrying out operations to win minerals or mineral products from the earth and shall include all excavating necessary for the purpose;
- "native area" shall mean any piece of land set apart for the exclusive use and occupation of natives under the Swaziland Concessions Partition Proclamation 1907;
- "notice" shall mean notice as given or served in terms of section *forty-five* of the Swaziland Water Proclamation 1910;
- "prior-dated mineral concession" shall mean a mineral concession dated before the land grazing or other concession as the case may be over the same area;
- "proprietor" shall mean the person in whose name is or are registered in the Deeds Office of Swaziland any concession or any surface rights; and if such person has disposed of the whole or part of his rights by lease or other document registered against title it shall include the person registered as the holder of such lease or document. It shall further include the legal representative of any such person who has died become insolvent is a minor or is of unsound mind or is otherwise under disability;
- "prospecting" shall mean all work that is necessary for or incidental to the search for minerals;
- "prospector" shall mean any white person engaged in prospecting;
- "surface rights" shall mean and include the rights to the surface of land conferred by any concession making a grant of land or the use of land for a definite or indefinite period or of land for agricultural purposes or of grazing or timber rights over land; the rights of the Crown to the surface of any land vested in the Crown as Crown land; and the rights to the surface of land conferred by a freehold title issued under section *seven* of the Swaziland Concessions Partition Proclamation 1907 or otherwise.

2. (1) In the case of improvements made before the date of this Proclamation on any land by the proprietor of surface rights if the proprietor of a prior-dated mineral concession over such land damages such improvements by mining operations he shall be liable to pay compensation for such damage unless either

- (a) at the time when such improvements were made notice of protest or other warning was given by him or his predecessor in title to the proprietor of surface rights; or
- (b) such damage is caused before the first day of April 1911 and is necessarily incidental to the carrying on of mining operations in a reasonable manner.

Any claim for compensation made by a proprietor of surface rights under this sub-section may in default of agreement be determined by a board.

(2) (a) At any time after the date of the taking effect of this Proclamation

- (i) the proprietor of the surface rights over any land may give to the proprietor of the prior-dated mineral concession notice of his intention to make improvements on such land and may require the Resident Commissioner to register the notice of intention so given;
- (ii) the proprietor of the prior-dated mineral concession may give the proprietor of the surface rights over any land in the area of his concession notice of his objection to any improvements proposed to be made on such land by such latter proprietor and of the reasons for such objection and may require the Resident Commissioner to register the notice of objection so given and the reasons therefor.

(b) If the proprietor of the surface rights is of opinion that damage has been done by the mining operations of the proprietor of a prior-dated mineral concession to improvements made after the date of the taking effect of this Proclamation and if no agreement exists between the proprietor of such surface rights and the proprietor of such prior-dated mineral concession in regard to the payment or non-payment of compensation for damage to such improvements it shall be lawful for the proprietor of the surface rights to claim in writing compensation for such damage and to apply to have such claim referred to the decision of a board. The board to which such claim is referred shall have full power and discretion to award compensation or to refuse compensation to the proprietor of the surface rights in respect of such damage.

(c) An appeal from the decision of such board shall lie to the High Commissioner who shall have full power and discretion to award or refuse compensation or to reduce or increase the compensation awarded by the board and whose decision shall be final. The provisions of sub-sections (1) to (5) inclusive of section *twenty-eight* of the Swaziland Water Proclamation 1910 shall apply *mutatis mutandis* in respect of an appeal to the High Commissioner under this sub-section.

(d) This section shall not apply to the establishment of townships or such other improvements as are referred to in section *twenty-two* of the Swaziland Administration Proclamation, 1904, which shall be regulated by the said Proclamation.

3. The proprietor of a later-dated mineral concession or any person authorized by him shall be entitled to prospect on land subject to such concession without the consent of the proprietor of the surface rights over such land provided the prospector is in possession of a permit from the Resident Commissioner an assistant commissioner or other officer appointed by the Resident Commissioner.

The proprietor of such mineral concession shall be liable for damage negligently or unlawfully caused in the conduct of prospecting operations on the area of his concession by any person authorized by him to prospect on such area.

No person shall be entitled under this section to prospect or enter upon any land used as a garden orchard vineyard nursery or plantation or on land under cultivation or on any dam well artificial water-course or water-works or within two hundred yards of any house homestead or building except with the consent of the proprietor of the surface rights.

4. If the proprietor of a later-dated mineral concession desires to mine upon any land within the area of his concession he may failing agreement with the proprietor of the surface rights over such land make a claim in writing for permission to mine thereon and apply to have such claim referred to the decision of a board. The board to which such claim is referred may grant such permission on such terms and for such time and subject to such compensation for interference with surface rights as it deems expedient or may refuse such permission.



Any permission given by a board shall specify whether the same is for alluvial or reef mining and in the case of alluvial mining the compensation shall not be less than the value of the surface rights over the land on which permission is given.

Any right to mine on land thus obtained by agreement or the permission of a board shall include reasonable rights of access to and making roads over such land and all land in the neighbourhood thereof.

5. The proprietor of a prior-dated mineral concession over a native area shall only be entitled to interfere by mining operations with improvements on such area on payment of compensation to the satisfaction of the Resident Commissioner.

The proprietor of a later-dated mineral concession shall only be entitled to prospect or mine on a native area with the permission in writing and subject to the directions of the Resident Commissioner who may withhold such permission or grant the same for such time and on such terms as to compensation rent or otherwise as he may deem expedient.

All payments made under this section shall be made to the Resident Commissioner as trustee for the natives concerned and shall be paid by him to the natives entitled thereto or otherwise applied for their benefit.

6. The provisions contained in section *forty-three* of the Swaziland Water Proclamation 1910 relating to registration shall apply *mutatis mutandis* to awards orders or decisions of a board given in respect of questions or matters which may be dealt with by a board under section *two* or *four* of this Proclamation and to agreements made with respect to such questions or matters.

7. Notwithstanding anything contained in this Proclamation the powers reserved to the High Commissioner under section *ten* of the Swaziland Concessions Partition Proclamation 1907 shall remain of full force and effect.

8. This Proclamation may be cited for all purposes as the Swaziland Surface Rights Proclamation 1910 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

*Under my Hand and Seal at  
Pretoria this Eighth day of April, One  
thousand Nine hundred and Ten.*

*Sellome*

High Commissioner.

By command, etc.

*of His Excellency the  
High Commissioner.  
(H. Rodwell)*

Imperial Secretary.





No. 13 of 1910

RECEIVED

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS many concessions granting mineral rights and other rights in Swaziland purport also to grant the right to water the right to timber the right of grazing and the right of cultivation on the land subject to such concessions;

And whereas it has been held by the courts in Swaziland that such rights are only ancillary or subsidiary to the main objects of the concessions;

And whereas according to law such rights may only be exercised in a reasonable manner and so as to inflict as little damage as possible upon the proprietors of land subject to such rights;

And whereas it is desirable that such rights should not be exercised on native areas in a manner inconsistent with the full and sufficient enjoyment use and occupation of such areas by natives;

And whereas it is expedient to prevent disputes and uncertainty and to define such rights and regulate the exercise thereof;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

1. In this Proclamation, unless inconsistent with the context,

“ancillary right” shall mean a right subsidiary to the main object of a concession or deemed to be granted for the better carrying out of such object; provided that for the purposes of this Proclamation the right to water shall be excluded from ancillary rights, and this Proclamation shall apply only to rights to wood or timber rights of cultivation and rights of grazing;

“board” shall mean a board constituted as provided in Chapter III of the Swaziland Water Proclamation 1910 and the provisions of the said chapter shall *mutatis mutandis* and so far as not inconsistent herewith apply to a board under this Proclamation;

“concession” shall mean any grant of land or the use thereof for agricultural mining or grazing purposes or any grant of minerals or mineral products or timber made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908 and shall include any rights originally included in any such grant so made and confirmed which has become vested in or been expropriated on behalf of the Crown whether or not such grant has been cancelled;

“date” or “dated” as applied to a concession or right shall refer to the date on which such concession or right was granted or created such date in the case of concessions to which section *twenty-five* of the Swaziland Administration Proclamation 1904 applies being determined in accordance with the provisions of that section; provided however that in the case of concessions confirmed by the High Commissioner under Proclamation No. 63 of 1908 such terms shall refer to the date of such confirmation; and in the case of rights originally granted by a concession

which has become vested in or been expropriated on behalf of the Crown such terms shall refer to the date of such concession whether or not such concession has been cancelled; and in the case of a freehold title issued under section seven of the Swaziland Concessions Partition Proclamation 1907 such terms shall refer to the date of the concession on which such title is founded and in the case of rights attaching to a native area such terms shall refer to the date of the concession granting the land or the use of the land on which the native area is demarcated;

"improvement" shall mean any cultivated soil road dam furrow plantations crops buildings drainage fencing clearing or other work or structure by which the value of the land has been increased;

"land proprietor" shall mean the proprietor of a land right;

"land right" shall mean and include

- (a) the right to land derived from a concession making a grant of land;
- (b) the right to land derived from a concession giving a lease of land or a grant of land for a limited period;
- (c) the right to land derived from a freehold grant of land made under section seven of the Swaziland Concessions Partition Proclamation 1907 or otherwise;
- (d) any right of the Crown to land vested in the Crown as Crown land whether under a concession or otherwise;
- (e) the right of natives to the use and occupation of any native area, but shall not include the right to graze or to cut timber on any land;

"mineral concession" shall mean a concession giving a right to precious or base metals precious stones minerals or mineral products on any piece of land;

"prior-dated mineral concession" shall mean a mineral concession which is dated before the land grazing or other concession as the case may be over the same area;

"later-dated mineral concession" shall mean a mineral concession which is dated after the land grazing or other concession over the same area;

"native area" shall mean any piece of land set apart for the exclusive use and occupation of natives under the Swaziland Concessions Partition Proclamation 1907;

"notice" shall mean notice as given or served in section forty-five of the Swaziland Water Proclamation 1910;

"proprietor" shall include land proprietor and shall mean any person in whose name is registered in the Deeds Office of Swaziland any concession or any land right; and if such person has disposed of the whole or part of his rights by lease or other document registered against title it shall include the person registered as the holder of such lease or document; it shall further include the legal representative of any such person who has died become insolvent is a minor or is of unsound mind or is otherwise under disability.

2. The proprietor of a prior-dated mineral concession over any area shall not in the exercise of any ancillary right disturb or damage

- (a) any improvement made before the date of the taking effect of this Proclamation by any land proprietor of such area or any person holding under him; or
- (b) any improvement made after the first day of April 1911 by any such land proprietor or person;

unless he shall first have paid such land proprietor compensation for such disturbance or damage the amount whereof shall failing agreement be determined by a board.

Nothing in this section contained shall affect the rights of a prior-dated mineral concession which are not ancillary rights.

3. When a land proprietor considers that the holder of a prior-dated mineral concession over the same area is exercising or about to exercise his ancillary rights in an unreasonable manner or so as to cause him or any person holding under him unnecessary damage he may make a complaint in writing and apply to have such complaint referred to a board. The board to which such complaint is referred may if it find the same to be well founded direct in what manner such rights may be exercised and award damages for the improper exercise thereof.

4. (1) Sections *two* and *three* of this Proclamation shall not apply to the exercise of ancillary rights on native areas.

(2) Notwithstanding anything contained in the Swaziland Concessions Partition Proclamation 1907 the proprietor of any prior-dated mineral concession may exercise ancillary rights on native areas provided that the exercise of such rights shall be subject to such conditions and restrictions as the Resident Commissioner may from time to time deem necessary for the protection of the natives in the full and sufficient enjoyment use and occupation of such areas. Notice of any conditions or restrictions imposed under this sub-section shall be given by the Resident Commissioner to the proprietor affected thereby.

(3) The Resident Commissioner may give the proprietor of a later-dated mineral concession permission to cut timber or to graze stock so far as may be necessary or convenient for mining purposes on any native area subject to such conditions and restrictions as he may think fit to impose and he may withdraw such permission if in his opinion the continuance thereof is incompatible with the full and sufficient enjoyment use and occupation of such area by the natives.

5. The ancillary right to wood or timber contained in a prior-dated mineral concession shall be deemed to confer the right to cut indigenous timber for the purposes of mining within the area of the concession provided that wood or timber used as firewood by persons employed in mining within such area or used for the habitations of such persons shall be deemed to be used for the purposes of mining within such area.

6. The ancillary right of cultivation contained in a prior-dated mineral concession shall be deemed to confer the right to produce crops or fruits for the consumption of persons and animals employed or used in mining on the area subject to the concession.

7. The ancillary right of grazing contained in a prior-dated mineral concession shall be deemed to confer the right to graze animals required for draught riding or slaughter purposes in connection with mining on the area subject to the concession.

Any person exercising the ancillary right of grazing shall be obliged to enclose the area over which he exercises such right if a board shall decide that such enclosure is necessary in order to prevent unreasonable interference with the exercise of land rights or grazing rights over the area subject to such ancillary rights.

Any person failing to comply with the decision of a board under this section shall be liable to a fine not exceeding one pound per diem for each day that he is in default.

8. The provisions contained in section *forty-three* of the Swaziland Water Proclamation 1910 relating to registration shall apply *mutatis mutandis* to awards orders or decisions of a board given in respect of questions or matters which may be dealt with by a board under section *two three* or *seven* of this Proclamation and to agreements made with respect to such questions or matters.

9. Any person making wilful misuse of an ancillary right on any area or wilfully neglecting to comply with any condition or restriction imposed by the Resident Commissioner under section *four* of this Proclamation with respect to the use of any such right on native areas shall be liable to a fine not exceeding two hundred and fifty pounds or to imprisonment with or without hard labour for a period not exceeding one year.

10. This Proclamation may be cited for all purposes as the Swaziland Ancillary Rights Proclamation 1910 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given ~~at~~ under my Hand and Seal at  
Ntoria the eighth day of April, One thousand  
Nine hundred and Ten.

High Commissioner.

By command ~~of~~

of His Excellency the  
High Commissioner

[Signature]

Imperial Secretary.



12-11

Sanctioned

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## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to amend the law relating to the preservation of trees and forests growing on Crown land in Swaziland and on land set apart for the use and occupation of natives of Swaziland under the Swaziland Concessions Partition Proclamation, 1907;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

1. The Swaziland Forests Preservation Proclamation 1909 shall be and is hereby repealed.

2. In this Proclamation unless inconsistent with the context

“brushwood” shall mean any bushes underwood or similar growths on Crown land or on native areas which are not included in the terms “indigenous timber” or “Government timber”;

“Crown land” shall mean all land vested in the High Commissioner or other authority representing the Crown as Crown land;

“Government timber” shall mean any trees and bushes planted under the direction of the Resident Commissioner on Crown land or on native areas;

“indigenous timber” shall mean forest trees or the saplings thereof growing on Crown land or on native areas not planted by human agency;

“mineral concession” shall mean a concession giving a right to precious or base metals precious stones minerals or mineral products on any area granted by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908;

“native area” shall mean any piece of land set apart for the exclusive use and occupation of natives under the Swaziland Concessions Partition Proclamation 1907;

“prior-dated mineral concession” shall mean a mineral concession earlier in date than a concession by which land on the same area or a lease of such land is granted.

3. No person shall cut down damage remove sell or purchase indigenous or Government timber without the permission of the Resident Commissioner or of an Assistant Commissioner or other person authorized by the Resident Commissioner to grant such permission; provided that

(1) the proprietor of a prior-dated mineral concession may without such permission

(a) cut down destroy or remove any indigenous or Government timber growing on the area of such concession where such cutting destruction or removal is necessary for the carrying out of mining operations subject in the case of Government timber to the payment of compensation to the Resident Commissioner;

(b) cut down and use indigenous timber in virtue of any right to timber under such concession;

(2) nothing in this section shall prevent natives living on native areas from cutting brushwood or taking decayed or dead wood on such areas for use as fuel.



4. No person shall cultivate any Crown land or land in native areas on which or within one hundred yards of which indigenous timber or Government timber is growing for the purpose of growing mealies kaffir corn or other similar crops without the permission of the Resident Commissioner or of an assistant commissioner, or other person authorized by the Resident Commissioner to grant such permission.

5. Every person who shall maliciously or by wilful neglect or recklessly set fire to or kindle any fire which by spreading shall set fire to any indigenous or Government timber or brushwood shall be deemed to be guilty of a contravention of the provisions of this Proclamation.

6. Any person contravening any provision of this Proclamation and any person who shall give to any other person instructions calculated to lead to a contravention of any such provision shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months or to such imprisonment alone or to both such fine and imprisonment.

7. In any prosecution for contravention of any of the provisions of this Proclamation the burden of proving that such permission as is mentioned in sections *three* and *four* has been obtained shall be upon the person charged.

8. This Proclamation may be cited for all purposes as the Swaziland Forests Preservation Proclamation 1910 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given ~~under~~ *under my Hand and Seal at*  
*Portia this Eighth day of April, One thousand*  
*Nine hundred and Ten.* *Sessom*

High Commissioner.

By Command ~~of~~ *of His Excellency the*  
*High Commissioner.*  
*(H. B. D. M.)*

Imperial Secretary.



## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to prevent the introduction into Basutoland of the disease among bees known as "foul brood";

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. No person shall import or cause to be imported into Basutoland

- (a) bees from any place without the written permission of the Resident Commissioner;
- (b) from any place outside South Africa honey in combs or extracted beeswax foundation comb used beehives or used beehive accessories or appliances or anything that has been used to contain or manipulate bees or beeswax.

2. The Resident Commissioner any Assistant Commissioner or any other person authorized by the Resident Commissioner may

- (a) inspect any consignment of bees imported under the permission aforesaid;
- (b) inspect any consignment reasonably suspected of containing anything imported in contravention of this Proclamation or the regulations made under it;
- (c) inspect any apiary or place where bees are kept;
- (d) inspect any honey or beeswax which is intended for sale;
- (e) caused to be cleaned or disinfected or destroyed any apiary or place where bees are kept if disease is found to exist therein;
- (f) cause to be destroyed any bees honey or anything else imported in contravention of this Proclamation or the regulations made under it or found to be affected with disease.

3. The High Commissioner may from time to time by notice in the *Gazette* make alter or rescind regulations not inconsistent with this Proclamation prescribing

- (a) the form and conditions of application for and issue of permissions under section one of this Proclamation and the particulars to be stated in such application;
- (b) the conditions of importation of bees from any place and of honey beeswax and foundation comb from any Colony or Territory in South Africa;

(c) the mode of cleaning or disinfecting or destroying apiaries and places where bees are kept; and generally for the better carrying out of the objects and purposes of this Proclamation

4. Any person who shall contravene any provision of this Proclamation or the regulations made under it or who shall interfere with or obstruct any person exercising the powers conferred by section two hereof shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

5. (1) The High Commissioner may from time to time by notice in the *Gazette* declare that paragraph (a) of section one of this Proclamation shall not apply in respect of the importation from any Colony or Territory in South Africa of bees native of that Colony or Territory if therein a statute or proclamation is in force prohibiting under a penalty not less than is mentioned in the last preceding section the importation of bees (except under permission) from any place into that Colony or Territory.

(2) If disease exists among bees in any Colony or Territory in respect of which the powers mentioned in sub-section (1) have been exercised the High Commissioner may revoke such notice and thereupon the provisions of paragraph (a) of section *one* shall apply in respect of such Colony or Territory.

(3) If disease exists among bees in any Colony or Territory in South Africa the High Commissioner may by notice in the *Gazette* extend the prohibitions contained in paragraph (b) of section *one* to importations from that Colony or Territory.

6 This Proclamation may be cited for all purposes as the Importation of Bees Regulation Proclamation (Basutoland) 1910 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Fourteenth day of April One thousand Nine hundred and Ten.

SELBORNE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

SANCTIONED.

WHEREAS it is expedient to prevent the introduction into Swaziland of the disease among bees known as "Foul Brood":

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. No person shall import or cause to be imported into Swaziland
  - (a) bees from any place without the written permission of the Resident Commissioner;
  - (b) from any place outside South Africa honey in combs or extracted beeswax foundation comb used beehives or used beehive accessories or appliances or anything that has been used to contain or manipulate bees or beeswax.
2. The Resident Commissioner any Assistant Commissioner or any other person authorised by the Resident Commissioner may

- (a) inspect any consignment of bees imported under the permission aforesaid;
- (b) inspect any consignment reasonably suspected of containing anything imported in contravention of this Proclamation or the regulations made under it;
- (c) inspect any apiary or place where bees are kept;
- (d) inspect any honey or beeswax which is intended for sale;
- (e) cause to be cleaned or disinfected or destroyed any apiary or place where bees are kept if disease is found to exist therein;
- (f) cause to be destroyed any bees honey or anything else imported in contravention of this Proclamation or the regulations made under it or found to be affected with disease.

3. The High Commissioner may from time to time by notice in the Gazette make alter or rescind regulations not inconsistent with this Proclamation prescribing

- (a) the form and conditions of application for and issue of permissions under section one of this Proclamation and the particulars to be stated in such application;
  - (b) the conditions of importation of bees from any place and of honey beeswax and foundation comb from any Colony or Territory in South Africa;
  - (c) the mode of cleaning or disinfecting or destroying apiaries and places where bees are kept;
- and generally for the better carrying out of the objects and purposes of this Proclamation.



4. Any person who shall contravene any provision of this Proclamation or the regulations made under it or who shall interfere with or obstruct any person exercising the powers conferred by section two hereof shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

5. (1) The High Commissioner may from time to time by notice in the Gazette declare that paragraph (a) of section one of this Proclamation shall not apply in respect of the importation from any Colony or Territory in South Africa of bees native of that Colony or Territory if therein a statute or proclamation is in force prohibiting under a penalty not less than is mentioned in the last preceding section the importation of bees (except under permission) from any place into that Colony or Territory.

(2) If disease exists among bees in any Colony or Territory in respect of which the powers mentioned in subsection (1) have been exercised the High Commissioner may revoke such notice and thereupon the provisions of paragraph (a) of section one shall apply in respect of such Colony or Territory.

(3) If disease exists among bees in any Colony or Territory in South Africa the High Commissioner may by notice in the Gazette extend the

- prohibitions -

prohibitions contained in paragraph (b) of section  
one to importations from that Colony or Territory.

6. This Proclamation may be cited for all purposes  
as the Importation of Bees Regulation Proclamation  
(Swaziland) 1910 and shall have force and take effect  
from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my hand and seal at *Pretoria*  
this *fourteenth* day of April one thousand nine  
hundred and ten.



*S. J. ...*

High Commissioner.

By Command of His Excellency the High Commissioner.

*(H. H. ...)*

Imperial Secretary.

SANCTIONED

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient to prevent the introduction into the Bechuanaland Protectorate of the disease among bees known as "Foul Brood":

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. No person shall import or cause to be imported into the Bechuanaland Protectorate
  - (a) bees from any place without the written permission of the Resident Commissioner;
  - (b) from any place outside South Africa honey in combs or extracted beeswax foundation comb used beehives or used beehive accessories or appliances or anything that has been used to contain or manipulate bees or beeswax.

2. The Resident Commissioner any Assistant Commissioner or any other person authorised by the Resident Commissioner may

- (a) inspect any consignment of bees imported under the permission aforesaid;
- (b) inspect any consignment reasonably suspected of containing anything imported in contravention of this Proclamation or the regulations made under it;
- (c) inspect any apiary or place where bees are kept;
- (d) inspect any honey or beeswax which is intended for sale;
- (e) cause to be cleaned or disinfected or destroyed any apiary or place where bees are kept if disease is found to exist therein;
- (f) cause to be destroyed any bees honey or anything else imported in contravention of this Proclamation or the regulations made under it or found to be affected with disease.

3. The High Commissioner may from time to time by notice in the Gazette make alter or rescind regulations not inconsistent with this Proclamation prescribing

- (a) the form and conditions of application for and issue of permissions under section one of this Proclamation and the particulars to be stated in such application;
  - (b) the conditions of importation of bees from any place and of honey beeswax and foundation comb from any Colony or Territory in South Africa;
  - (c) the mode of cleaning or disinfecting or destroying apiaries and places where bees are kept;
- and generally for the better carrying out of the objects and purposes of this Proclamation.

4. Any person who shall contravene any provision of this Proclamation or the regulations made under it

or who shall interfere with or obstruct any person exercising the powers conferred by section two hereof shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

5. (1) The High Commissioner may from time to time by notice in the Gazette declare that paragraph (a) of section one of this Proclamation shall not apply in respect of the importation from any Colony or Territory in South Africa of bees native of that Colony or Territory if therein a statute or proclamation is in force prohibiting under a penalty not less than is mentioned in the last preceding section the importation of bees (except under permission) from any place into that Colony or Territory.

(2) If disease exists among bees in any Colony or Territory in respect of which the powers mentioned in subsection (1) have been exercised the High Commissioner may revoke such notice and thereupon the provisions of paragraph (a) of section one shall apply in respect of such Colony or Territory.

(3) If disease exists among bees in any Colony or Territory in South Africa the High Commissioner may by notice in the Gazette extend the prohibitions contained in paragraph (b) of section one to importations from that Colony or Territory.

6. This Proclamation may be cited for all purposes as the Importation of Bees Regulation

- Proclamation -



Proclamation (Bechuanaland Protectorate) 1910 and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

GIVEN under my hand and seal at *Beitbridge*  
this *fourteenth* day of April one thousand nine  
hundred and ten.



*S. S. S.*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. M. M.*

Imperial Secretary.

18  
7/10



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

EXHIBITION

WHEREAS it is desirable to amend the tariff of Stamp Fees payable in the Office of the Surveyor-General for Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The Stamp Fees specified in the Schedule to this Proclamation shall be payable in the Office of the Surveyor-General for Swaziland in lieu of the fees chargeable under Schedule "C" to Law No. 9 of 1891 of the Transvaal as in force in Swaziland under the Schedule to Annexure No. 2 to the said law and under section thirty-six of Annexure No. 3 to the said law. The said fees shall be paid by means of

revenue stamps to be affixed to the documents in respect of which the fees are payable and the stamps shall be cancelled according to law.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Johnnambury*  
this *fifteenth* day of *April* one thousand  
nine hundred and ten.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

# S C H E D U L E.

## A.- Examination of General Plans.

- |    |   |          |
|----|---|----------|
| 1. | Examination of general plans of townships:      |          |
|    | per figure      ...    ...    ...    ...    ... | £0. 1. 0 |

## B.- Certified Copies of Diagrams, etc.

- |     |  |         |
|-----|--|---------|
| 2.  | For each diagram of a lot less than 10 morgen  | 0. 5. 0 |
| 3.  | For each diagram of a lot from 10 morgen to<br>75 morgen      ...    ...    ...    ...    ...          | 0.15. 0 |
| 4.  | For each diagram of a lot exceeding 75 morgen  | 1. 0. 0 |
| 5.  | For each deduction shown on the diagram ...  | 0. 1. 0 |
| 6.  | For each complete tracing of a diagram of a lot<br>less than 10 morgen ...    ...    ...    ...    ... | 0. 3. 0 |
| 7.  | For each complete tracing of a diagram of a lot<br>from 10 morgen to 75 morgen    ...    ...           | 0. 7. 6 |
| 8.  | For each complete tracing of a diagram of a lot<br>exceeding 75 morgen ...    ...    ...    ...        | 0.10. 0 |
| 9.  | For each sub-division shown on a diagram ..  | 0. 1. 0 |
| 10. | For each rough tracing of a lot less than 10<br>morgen      ...    ...    ...    ...    ...    ...     | 0. 1. 6 |
| 11. | For each rough tracing of a lot from 10 to<br>75 morgen ...    ...    ...    ...    ...    ...         | 0. 3. 6 |
| 12. | For each rough tracing of a lot exceeding<br>75 morgen ...    ...    ...    ...    ...    ...          | 0. 5. 0 |

## C.- Copies of General Plans.

- |     |   |         |
|-----|---|---------|
| 13. | For each copy of a general plan of a township;- |         |
|     | For each lot from 1 to 100      ...    ...      | 0. 0. 3 |
|     | For each lot from 100 to 200    ...    ...      | 0. 0. 2 |
|     | For each lot over 200      ...    ...    ...    | 0. 0. 1 |

14.	General plans or compilation of farms and portions of farms:-	
	Not exceeding two figures .. ...	20. 7. 6
	For each additional figure ... ..	0. 2. 6
15.	Search fee: -	
	For every hour or portion thereof ...	0. 1. 0
16.	For each certificate on a diagram or other document ... ..	0. 1. 0

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RECEIVED

14612

REC'D  
14 MAY 10

PROCLAMATION

By His Excellency The High Commissioner.

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WHEREAS by Section three of the Swaziland Administration Proclamation, 1907, it is provided inter alia that the Deeds Office for Swaziland shall remain at Pretoria in the Transvaal until provision shall have been made by law for the establishment of a Deeds Office in Swaziland.

AND WHEREAS it is now desirable to make provision as aforesaid for the establishment of a Deeds Office in Swaziland.

NOW THEREFORE under and by virtue of the powers, authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council, 1903, as amended by the Swaziland Order in Council, 1906, and the Swaziland Order in Council, 1909, I do hereby declare, proclaim and make known as follows:-

1. The proviso to Section three of the Swaziland Administration Proclamation, 1907, shall be and is hereby repealed in so far as it relates to the Deeds Office and the Registrar of Deeds.

2. There shall be and is hereby created and established at Mbabane in the territory of Swaziland an Office for the Registration of Deeds to be styled the "Deeds Office of Swaziland."

3. The High Commissioner may appoint an Officer to be styled the "Registrar of Deeds" or any person to act in such capacity who shall be in charge of the Deeds Office of Swaziland and who shall have and exercise in the said Territory all powers and duties in respect of Deeds and other documents which are conferred and imposed on the Registrar of Deeds under the Deeds Proclamation, 1903, of the Transvaal or any amendment thereof as applied to Swaziland or under any other law in force in Swaziland.

4. The Officer appointed or acting as Registrar of Deeds under this Proclamation shall take charge of and preserve the records of the late Special Registrar of Deeds for Swaziland and of any records of deeds and documents filed with the Registrar of Deeds of the Transvaal in accordance with any law or regulation in force in Swaziland.

5. Regulation one of the Regulations published under Government Notice No.6 (Swaziland) of 1904 shall be and is hereby withdrawn: but save as in this section provided the Regulations published under the said Government Notice as amended by High Commissioner's Notice No. 52 of 1908 and any other Regulations in force in Swaziland shall continue to apply in respect of the Deeds Office of Swaziland established under this Proclamation until the same are rescinded or amended by any regulations framed under any law in force in Swaziland relating to the registration of Deeds: provided always that in the interpretation of the regulations published under the said Government Notice or any other regulations in force in

Swaziland the following expressions when occurring therein shall have respectively the meanings herein assigned to them that is to say:-

"Registrar of Deeds" shall mean the Registrar of Deeds appointed or acting under this Proclamation

"Deeds Office" shall mean the Deeds Office constituted under this Proclamation:

"Special Swaziland Register" shall mean any Register kept under this Proclamation:

"Resident Magistrate for Swaziland" shall mean the Resident Commissioner appointed under the Swaziland Administration Proclamation, 1907.

6. This Proclamation shall have force and take effect from the *thirty-first* day of *July* 1910.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Johannesburg*  
this *fifteenth* day of *April* One thousand  
Nine hundred and Ten.



*[Signature]*  
High Commissioner

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

SANCTIONED.

14601

14 MAY 10

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by Proclamation No. 2 (Swaziland) of 1906 it was provided that the Game Preservation Ordinance 1905 of the Transvaal should be deemed to be law within the Territory of Swaziland from the 6th day of April 1906:

AND WHEREAS it is desirable to amend the said Ordinance hereinafter referred to as the Principal Law as regards its application to Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. Section nine of the Principal Law shall be and is hereby amended as regards its application to Swaziland by the addition of the following sub-section after sub-section (e) thereof -

(f) it shall be returned by the holder thereof on the

- expiration -

expiration of the period for which it was issued to the Government Secretary for Swaziland with a list endorsed thereon or attached thereto shewing the number and description of all game shot under the license and the locality in which they were shot.

2. This Proclamation shall be read as one with the Principal Law as applied to Swaziland and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Johnstoneburg*  
this *14th* day of *April* one thousand  
*nine* hundred and ten.

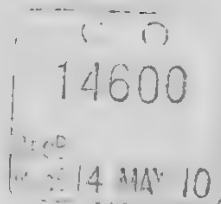


*Johnstoneburg*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*Edmund*  
Imperial Secretary.





PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

SANCTIONED.

WHEREAS it is expedient to amend the Swaziland Consolidation Laws Proclamation (hereinafter referred to as "the said Proclamation"):

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section three of the said Proclamation shall be and is hereby amended by the insertion therein immediately after the words "invested in the names of " of the words "the Permanent Under Secretary of State for the Colonies and".

2. The amendment hereby made shall be deemed to have been inserted in the said Proclamation at the date of the taking effect thereof and to have had effect from such date.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at *Johannesburg*  
this *fifteenth* day of *April* one thousand  
nine hundred and ten.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS the disease amongst cattle known as East Coast fever is reported to be prevalent in the Colony of the Cape of Good Hope and it is expedient to take measures for preventing the spread of the said disease to the Territory of Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. It shall not be lawful without the written permission of the Resident Commissioner to introduce or import or cause to be introduced or imported any horned cattle or the hides or skins thereof from the Colony of the Cape of Good Hope into any part of the Territory of Basutoland.

2. Any person contravening the provisions of the preceding section shall be subject to a penalty not exceeding two hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months unless such fine be sooner paid.

3. All horned cattle or the hides or skins thereof which may be introduced or imported into the said territory in contravention of this Proclamation shall be liable to be confiscated and destroyed.

4. Any vehicles gear or harness used in the introduction or importation from the Colony of the Cape of Good Hope into the said territory of any horned cattle or any hides or skins thereof shall be disinfected in such manner as the Resident Commissioner may direct.

5. No person shall introduce or import or cause or allow to be introduced or imported from the Colony of the Cape of Good Hope into any part of the Territory of Basutoland any reeds grass hay straw kraal manure or any other article likely to act as a carrier of ticks and any such article introduced or imported into the said territory in contravention of this Proclamation shall be liable to be confiscated and destroyed.

6. Any person contravening the provisions of the last preceding section shall be subject to a penalty not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid.

7. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Fifteenth day of April One thousand Nine hundred and Ten.

SELBORNE

High Commissioner

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

SANCTIONED

No. 1 of 1910.

1910

PROCLAMATION

14 MAY 10

by His Excellency the High Commissioner.

WHEREAS it is desirable to make special provision for the eradication in Swaziland of the disease amongst cattle known as East Coast Fever:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation unless inconsistent with the context

"Cattle" means any ox bull cow heifer or calf.

"Fence" means a substantial stock-proof fence with gates at places where it crosses a public or private road and with suitable appliances where it crosses any obstacles.

"Government Veterinary Officer" means the principal veterinary surgeon in the service of the Swaziland Administration or any person for the time being acting in that capacity.

"Official" means and includes any Assistant Commissioner the Government Veterinary Officer any Stock Inspector appointed under this Proclamation any European member of a police force

lawfully established in Swaziland and any other European officer appointed by the Resident Commissioner to assist in carrying out the provisions of this Proclamation.

2. The Resident Commissioner shall cause all cattle in Swaziland to be branded with a distinctive brand in such manner as he shall direct and may from time to time cause any cattle which have been branded to be branded with a new or altered brand.

3. The owners and persons in charge of cattle shall when called upon by any official appointed by the Resident Commissioner to brand cattle assist in the branding of their cattle. Any such person refusing such assistance when so called upon shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

4. (1) After the branding of cattle at any place the official by whom or under whose supervision such branding has been carried out shall hand to the person in whose custody such cattle are a list showing the number and description of the cattle branded at that place.

(2) Any person to whom such list has been so handed shall produce the same at any time on the request of any official. Any such person who on such request fails to produce such list shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds and in default of payment to imprisonment



with or without hard labour for a period not exceeding two months.

(3) If any official shall at any time find that the cattle in the custody of the person to whom such list has been handed do not correspond with the cattle shown on such list he shall require such person to account for the discrepancy and if such person shall fail to account for the discrepancy to the satisfaction of such official such official shall give him notice in writing requiring him to appear before the Assistant Commissioner of the district to account for such discrepancy and if such person shall fail to appear as required by such notice or shall fail to account for such discrepancy to the satisfaction of the Assistant Commissioner he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and in addition any cattle found in his custody not included in such list for which he has failed to account to the satisfaction of the Assistant Commissioner shall be confiscated.

(4) For the purpose of this section any cattle at a native kraal shall be deemed to be in the custody of the headman of the native village in which the kraal is situate.

5. Upon the outbreak or suspected outbreak of East Coast Fever amongst any cattle it shall be lawful for any official to isolate such cattle and any other

cattle which have been or are suspected of having been in contact with such cattle in such place as he may determine and to keep such cattle in isolation for a period of fourteen days and for such further period as the Resident Commissioner may direct.

6. All clean cattle in the vicinity of any isolation camp for infected cattle or in the vicinity of any place where an outbreak of East Coast Fever has occurred shall be removed by the persons having charge thereof to such place or places as the Government Veterinary Officer or any Stock Inspector may direct and shall remain at such place or places until their removal shall be authorised by the Resident Commissioner.

7. (1) It shall be lawful for the Resident Commissioner to cause to be destroyed any cattle

(a) which are found to be infected with East Coast Fever, or

(b) which have been in contact with any cattle infected with such disease or have been in any area or place infected or suspected of being infected with such disease.

(2) It shall be lawful for the Resident Commissioner any Assistant Commissioner the Government Veterinary Officer or any Stock Inspector to cause to be destroyed any calves born in any area infected or suspected of being infected with East Coast Fever.

8. Compensation may be paid by the Resident Commissioner in accordance with regulations made under this Proclamation to the owner of any cattle destroyed

under the preceding section and for any cattle dying from any cause whatsoever in an isolation camp established under section five of this Proclamation.

Save as in this section mentioned no compensation shall be payable in respect of any loss or damage caused by the exercise of the powers of this Proclamation.

9. The Resident Commissioner may at any time cause fences to be erected on any land in Swaziland for the purpose of preventing the spread of East Coast Fever. Any such fences erected for the purposes of this Proclamation shall remain the property of the Swaziland Administration and may at any time be removed. No fence erected under this Proclamation shall be so constructed as to encroach upon any homestead native village or garden.

10. Any person who wilfully injures or removes any fence whether erected under this Proclamation or otherwise or any gate or other appliance forming part or serving the purpose thereof shall on conviction be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

11. Any person who shall

- (a) open and leave open or unfastened; or
- (b) finding open neglect on passing through to shut and fasten

a gate in any fence whether erected under this Proclamation or otherwise shall on conviction be liable in the case of a first offence to a fine not exceeding five pounds and in default of payment to imprisonment with

or without hard labour for a period not exceeding fourteen days and in the case of a second or subsequent offence to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

12. The Resident Commissioner and any official and any person acting under the direction or authority of the Resident Commissioner or an official may enter upon any land or premises for the purpose of inspecting any cattle or carrying out any of the provisions of this Proclamation.

13. Any person obstructing the Resident Commissioner or any official or any cattle guard appointed by the Resident Commissioner in carrying out the provisions of this Proclamation or failing to comply with any order lawfully given by any such person under this Proclamation shall on conviction be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

14. The Resident Commissioner may from time to time appoint and remove such stock inspectors cattle guards and other persons as he may think necessary for the purpose of this Proclamation.

15. The High Commissioner may from time to time by notice in the Gazette make alter and revoke regulations for any or all of the following purposes and may provide penalties for the breach thereof.

- (a) prescribing the manner in which the branding of cattle under this Proclamation shall be carried out;

- (b) determining the amount of any compensation payable under this Proclamation and the method of assessing such compensation;
- (c) generally for the better carrying out of the provisions of this Proclamation.

16. This Proclamation may be cited as the Swaziland East Coast Fever Prevention Proclamation 1910 and shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

GIVEN under my hand and Seal at *Phauntla*  
this *Eighteenth* day of April, One thousand  
Nine hundred and Ten.



*P. A. ...*

High Commissioner.

By Command of His Excellency

The High Commissioner.

*A. H. ...*

Imperial Secretary.



No 24 of 1910.

# PROCLAMATION.

By His Excellency the High Commissioner.

Whereas it is expedient to amend the Liquor Prohibition (L.P.) (Basutoland) Regulations (the "Principal Law") in order to provide for the issue of licences to medical officers of the Basutoland Administration, or to any medical practitioner, apothecary, chemist or druggist acting under the authority of such licence as is hereinafter mentioned;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section three of the principal law shall be and is hereby repealed.

2. Notwithstanding anything contained in the principal law it shall be lawful

(a) for a medical officer of the Basutoland Administration, or

(b) for any medical practitioner apothecary chemist or druggist acting under the authority of such licence as is hereinafter mentioned

to administer supply sell or expose for sale in Basutoland for purely medicinal purposes any bona fide medicine containing intoxicating liquor.

3. (1) The licence referred to in the preceding section shall be an annual licence to administer supply sell or expose for sale for purely medicinal purposes any bona fide medicine containing intoxicating liquor and shall be granted by the Resident Commissioner. Every such licence shall expire on the thirtieth day of June following the date of issue.

(2) No charge shall be made for any such licence granted to a medical practitioner. A fee of one pound shall be charged for any such licence granted to an apothecary chemist or druggist. Such fee shall be payable by means of revenue stamps affixed to the licence which shall be duly defaced before the licence is issued.

(3) Any person desiring to obtain such a licence shall make an application in writing to the Resident Commissioner accompanied by proof of his qualifications not less than three weeks before the commencement of the period for which he desires such licence or as the Resident Commissioner directs.

(4) The Resident Commissioner may refuse to grant any application for such a licence if in his opinion there are sufficient grounds for such refusal and shall not be obliged to state the grounds of such refusal.

(5) The Resident Commissioner shall cause a register to be kept of all licences issued by him under this section.

4. If any person who holds a licence issued under the preceding section is convicted of an offence under the principal law the court before which he is convicted may in addition to any other penalty order his licence to be cancelled.

5. This Proclamation may be cited for all purposes as the Basutoland Liquor Amendment Proclamation 1910 and shall have force and effect on and after the first day of July 1910.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Eighteenth day of April One thousand Nine hundred and Ten.

SELBORNE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS certain rules approved by the High Commissioner governing appointments to and promotions in the Public Service of Basutoland have been in operation since the 24th day of March 1908;

And whereas it is expedient to embody the substance of such rules in a Proclamation;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. In this Proclamation unless the context otherwise requires

“the territory” shall mean the territory of Basutoland;

“scheduled office” shall mean any office in the territory specified in the Schedule to this Proclamation and any other office which may be added thereto by the High Commissioner by notice in the *Gazette*.

2. Except in the case of officers transferred from a pensionable office in the service of another British Administration all officers shall be required to serve for a period of at least six months on probation before being appointed to a scheduled office.

3. The Resident Commissioner may recommend any officer who has served for such period on probation for appointment to a scheduled office provided that the officer shall have

(a) passed the Civil Service Lower Law Examination of Cape Colony or such other examination in law as may be approved by the High Commissioner;

(b) attained the third grade of proficiency in the local native language;

(c) satisfied the Resident Commissioner as to his general fitness for retention in the service;

(d) appeared before a medical board consisting of not less than two qualified medical officers and obtained from the board a certificate of good health and physical fitness to serve under the climatic conditions of the territory in the service of which he is a probationer.

4. The High Commissioner may with the approval of the Secretary of State appoint to a scheduled office any officer recommended for such appointment by the Resident Commissioner and such appointment shall be notified in the *Gazette* and shall unless the Resident Commissioner shall for any reason recommend otherwise be deemed to have taken effect from the commencement of the probationary period served by such officer.

5. No officer shall be qualified for promotion to the post of Assistant Commissioner until he shall have

(a) passed the Civil Service Lower Law Examination of Cape Colony or such other examination in law as may be approved by the High Commissioner; and

(b) attained the second grade of proficiency in the local native language.

6. The grades of proficiency in the native language shall be determined by examination to be held in such manner and at such time and place as the Resident Commissioner may direct and the tests for the respective grades shall be as follows:—

(a) To attain the third grade a candidate must satisfy the examiner that he has the ability to write and converse in simple colloquial Sesuto or other native language;

- (b) to attain the second grade a candidate must satisfy the examiner that he has a grammatical knowledge of such language and ability to write translate and converse freely therein on ordinary subjects without the aid of an interpreter;
- (c) to attain the first grade a candidate must satisfy the examiner that he has a thorough knowledge of such language and ability to act as an interpreter therein on any public occasion;

provided that it shall be necessary for a candidate in order to satisfy the examiner as to his oral proficiency in such language to obtain for the third grade twenty-five marks for the second grade sixty marks and for the first grade ninety marks out of a possible maximum of one hundred marks.

7. A bonus of fifty pounds on attaining the second grade and a bonus of one hundred pounds on attaining the first grade shall be paid to any officer holding a scheduled office and may on the recommendation of the Resident Commissioner be paid to an officer not holding a scheduled office.

8. The High Commissioner shall have the power to exempt

- (a) from one or more of the conditions laid down in section *three* any probationer in whose case he is of opinion that the fulfilment of the conditions from which exemption is given is not essential to the proper performance of the duties which such probationer will if appointed be expected to discharge;
- (b) from one or more of the conditions for promotion laid down in section *five* any officer the length and character of whose service shall in the opinion of the High Commissioner entitle him to special consideration;

provided that the High Commissioner shall duly report to the Secretary of State every case in which he has allowed such exemption.

9. This Proclamation may be cited as the Public Service (Basutoland) Proclamation 1910.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twelfth day of May One thousand Nine hundred and Ten.

SELBORNE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

#### SCHEDULE.

Government Secretary.  
Clerks to the Resident Commissioner.  
Assistant Commissioners.  
Clerks to the Assistant Commissioners.  
Inspectors of the Basutoland Police.  
Sub-Inspectors of the Basutoland Police.

(Printed by the Government Printer, Pretoria.)

16334  
JUN 10

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS certain rules approved by the High Commissioner governing appointments to and promotions in the public service of the Bechuanaland Protectorate have been in operation since the 24th day of March 1908:

AND WHEREAS it is expedient to embody the substance of such rules in a proclamation:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. In this Proclamation unless the context otherwise requires "the Territory" shall mean the Bechuanaland Protectorate; "scheduled office" shall mean any office in the territory specified in the Schedule to this Proclamation and any other office which may be added thereto by the High Commissioner by notice in the Gazette.

2. Except in the case of officers transferred from a pensionable office in the service of another British Administration all officers shall be required to serve for a period of at least six months on probation before being appointed to a scheduled office.



3. The Resident Commissioner may recommend any officer who has served for such period on probation for appointment to a scheduled office provided that the officer shall have:-

- (a) passed the Civil Service Lower Law Examination of Cape Colony, or such other examination in law as may be approved by the High Commissioner;
- (b) attained the third grade of proficiency in the local native language;
- (c) satisfied the Resident Commissioner as to his general fitness for retention in the service;
- (d) appeared before a Medical Board consisting of not less than two qualified medical officers and obtained from the Board a certificate of good health and physical fitness to serve under the climatic conditions of the territory in the service of which he is a probationer.

4. The High Commissioner may with the approval of the Secretary of State appoint to a scheduled office any officer recommended for such appointment by the Resident Commissioner and such appointment shall be notified in the Gazette and shall unless the Resident Commissioner shall for any reason recommend otherwise be deemed to have taken effect from the commencement of the probationary period served by such officer.

5. No officer shall be qualified for promotion to the post of Assistant Commissioner until he shall have:-

- (a) passed the Civil Service Lower Law Examination of Cape Colony or such other examination in law as may be approved by the High Commissioner; and



- (b) attained the second grade of proficiency in the local native language.

6. The grades of proficiency in the native language shall be determined by examination to be held in such manner and at such time and place as the Resident Commissioner may direct and the tests for the respective grades shall be as follows:-

- (a) to attain the third grade a candidate must satisfy the examiner that he has the ability to write and converse in simple colloquial Secwana;
- (b) to attain the second grade a candidate must satisfy the examiner that he has a grammatical knowledge of such language and ability to write translate and converse freely therein on ordinary subjects without the aid of an interpreter;
- (c) to attain the first grade a candidate must satisfy the examiner that he has a thorough knowledge of such language and ability to act as an interpreter therein on any public occasion;

Provided that it shall be necessary for a candidate in order to satisfy the examiner as to his oral proficiency in such language to obtain for the third grade twenty-five marks for the second grade sixty marks and for the first grade ninety marks out of a possible maximum of one hundred marks.

7. A bonus of fifty pounds on attaining the second grade and a bonus of one hundred pounds on attaining the first grade shall be paid to any officer holding a scheduled office and may on the recommendation of the Resident Com-

-Missioner -

Commissioner be paid to an officer not holding a scheduled office.

8. The High Commissioner shall have the power to exempt:-

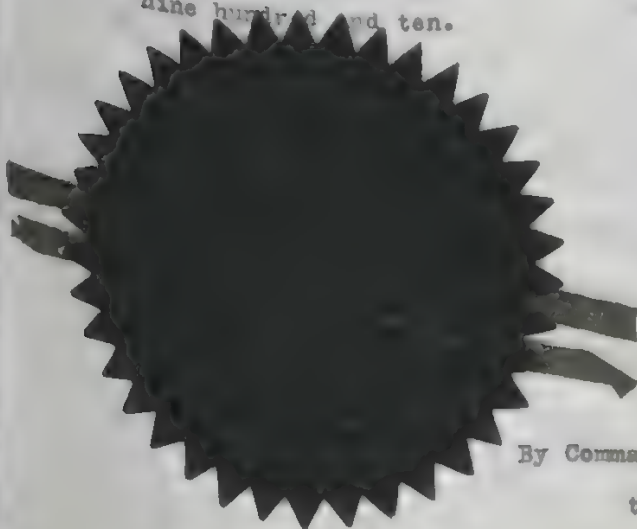
(a) from one or more of the conditions laid down in section three any probationer in whose case he is of opinion that the fulfilment of the conditions from which exemption is given is not essential to the proper performance of the duties which such probationer will if appointed be expected to discharge.

(b) from one or more of the conditions for promotion laid down in section five any officer the length and character of whose service shall in the opinion of the High Commissioner entitle him to special consideration; Provided that the High Commissioner shall duly report to the Secretary of State every case in which he has allowed such exemption.

9. This Proclamation may be cited as The Public Service (Bechuanaland Protectorate) Proclamation 1910.

G O D S A V E T H E K I N G'

GIVEN under my Hand and Seal at *Cape Town*  
this *12th* day of *May* one thousand  
nine hundred and ten.



*Seal*  
High Commissioner.

By Command of His Excellency  
the High Commissioner,

*(H. H. ...)*  
Imperial Secretary.

S C H E D U L E.

Government Secretary,

Clerks to the Resident Commissioner,

Assistant Commissioners,

Resident Magistrates,

Assistant Resident Magistrates,

Clerks to the Assistant Commissioners,

Clerks to Resident Magistrates,

Clerks to Assistant Resident Magistrates,

Inspectors of the Bechuanaland Protectorate Police,

Sub-Inspectors of the Bechuanaland Protectorate Police.

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INSTRUCTIONS

C O  
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Recd  
4 JUN 10

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS certain rules approved by the High Commissioner governing appointments to and promotions in the public service of Swaziland have been in operation since the 24th day of March 1908:

AND WHEREAS it is expedient to embody the substance of such rules in a proclamation:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed late to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation unless the context otherwise requires  
"the Territory" shall mean the territory of Swaziland;  
"scheduled office" shall include any office in the territory specified in the Schedule to this Proclamation and any other office which may be added thereto by the High Commissioner by notice in the Gazette.
2. Except in the case of officers transferred from a pensionable office in the service of another British Administration all officers shall be required to serve for a period of at least six months on probation before being appointed to a scheduled office.

3. The Resident Commissioner may recommend any officer who has served for such period on probation for appointment to a scheduled office provided that the officer shall have -
- (a) passed the Civil Service Lower Law Examination of Cape Colony or such other examination in law as may be approved by the High Commissioner;
  - (b) attained the third grade of proficiency in the local native language;
  - (c) satisfied the Resident Commissioner as to his general fitness for retention in the service;
  - (d) appeared before a Medical Board consisting of not less than two qualified medical officers and obtained from the Board a certificate of good health and physical fitness to serve under the climatic conditions of the territory in the service of which he is a probationer.

4. The High Commissioner may, with the approval of the Secretary of State appoint to a scheduled office any officer recommended for such appointment by the Resident Commissioner and such appointment shall be notified in the Gazette and shall unless the Resident Commissioner shall for any reason recommend otherwise be deemed to have taken effect from the commencement of the probationary period served by such officer.

5. No officer shall be qualified for promotion to the post of Assistant Commissioner until he shall have -
- (a) passed the Civil Service Lower Law Examination of Cape Colony or such other examination in law as may be approved by the High Commissioner; and
  - (b) attained the second grade of proficiency in the local native language.

6. The grades of proficiency in the native language shall be determined by examination to be held in such manner



and at such time and place as the Resident Commissioner may direct and the tests for the respective grades shall be as follows:-

- (a) to attain the third grade a candidate must satisfy the examiner that he has the ability to write and converse in simple colloquial Swazi;
- (b) to attain the second grade a candidate must satisfy the examiner that he has a grammatical knowledge of such language and ability to write translate and converse freely therein on ordinary subjects without the aid of an interpreter;
- (c) to attain the first grade a candidate must satisfy the examiner that he has a thorough knowledge of such language and ability to act as an interpreter therein on any public occasion;

provided that it shall be necessary for a candidate in order to satisfy the examiner as to his oral proficiency in such language to obtain for the third grade twenty-five marks for the second grade sixty marks and for the first grade ninety marks out of a possible maximum of one hundred marks.

7. A bonus of fifty pounds on attaining the second grade and a bonus of one hundred pounds on attaining the first grade shall be paid to any officer holding a scheduled office and may on the recommendation of the Resident Commissioner be paid to an officer not holding a scheduled office.

8. The High Commissioner shall have the power to exempt -

- (a) from one or more of the conditions laid down in section three any probationer in whose case he is of opinion that the fulfilment of the conditions from which exemption is given is not essential to the proper performance

of the duties which such probationer will if appointed be expected to discharge;

- (b) from one or more of the conditions for promotion laid down in section five any officer the length and character of whose service shall in the opinion of the High Commissioner entitle him to special consideration;

Provided that the High Commissioner shall duly report to the Secretary of State every case in which he has allowed such exemption.

9. This Proclamation may be cited as the Public Service (Swasiland) Proclamation 1910.

G O D S A V E T H E K I N G

GIVEN under my Hand and Seal at *Cape Town*  
this *12th* day of *May* one thousand  
nine hundred and ten.



*Sellme*

High Commissioner.

By Command of His Excellency the High Commissioner.

*(H. M. M. M.)*

Imperial Secretary.

S C H E D U L E.

Government Secretary,

Clerks to the Resident Commissioner,

Assistant Commissioners,

Clerks to the Assistant Commissioners,

Inspectors of the Swaziland Police

Sub-Inspectors of the Swaziland Police.

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No. 28 of 1910.]

### PROCLAMATION

BY HIS EXCELLENCY VISCOUNT GLADSTONE, A MEMBER OF  
HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL,  
HIGH COMMISSIONER FOR SOUTH AFRICA.

WHEREAS His Late Majesty King Edward VII. by a Commission under His Royal Sign Manual and Signet bearing date the Thirtieth day of March 1910 in the Tenth year of His Reign and given at His Court at Saint James's was graciously pleased to appoint me to be during His pleasure High Commissioner for South Africa and as such High Commissioner to act in His name and on His behalf and to represent His Crown and authority in certain matters as in the said Commission set forth occurring in South Africa beyond the limits of His Union of South Africa as constituted by the Act of Parliament passed on the twentieth day of September 1909 in the Ninth year of His Reign intituled "An Act to constitute the Union of South Africa";

And whereas notwithstanding the lamented death of His said Majesty the said Commission remains of full force and effect during the pleasure of His Majesty King George V.;

Now therefore I do hereby declare proclaim and make known that I have this day assumed the office of His Majesty's High Commissioner for South Africa under and by virtue of the said Commission and I do hereby command and require all and singular His Majesty's Officers and Ministers Civil and Military and all the inhabitants of His Possessions and all other His loyal subjects in South Africa to be aiding and assisting unto me in the duties of my said office and in carrying into effect His Majesty's will and pleasure.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this  
Nineteenth day of May One thousand Nine hundred and  
Ten.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

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(Printed by the Government Printer, Pretoria.)

14-00000

**SANCTIONED**

10349  
25 JUL 10

**DECLARATION**

OF THE SANCTIONED PERSONS LIST

I, the undersigned, do hereby declare that I am not a member of any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons.

I am not a member of any of the organizations mentioned in the list of sanctioned persons, and I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons, and I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons.

I, the undersigned, do hereby declare that I am not a member of any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons.

(1) The undersigned do hereby declare that I am not a member of any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons, and that I am not in any way connected with any of the organizations mentioned in the list of sanctioned persons.

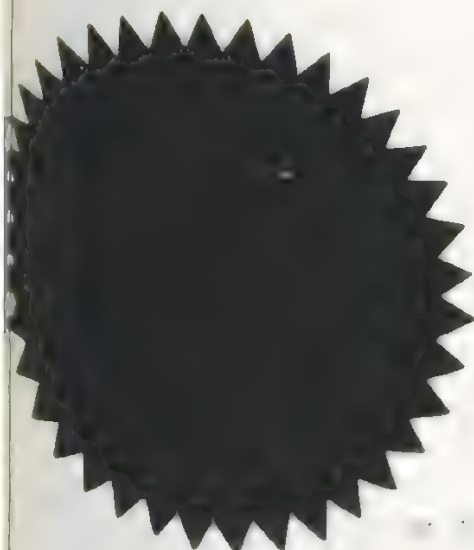


THE STATE OF TEXAS,  
COUNTY OF DALLAS.

I, the undersigned, Judge of the County of Dallas, do hereby certify that the within and foregoing is a true and correct copy of the original of the same as the same appears from the records of the County of Dallas.

WITNESSED my hand and seal of office this 1st day of June, 1901.

Attest:  
J. H. [Signature]  
County Clerk.



[Signature]

County Clerk.

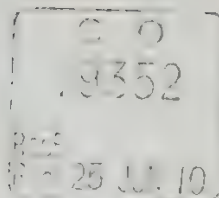
IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 1st day of June, 1901.

[Signature]

County Clerk.

No. 10 of 1910

SANCTIONED



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision out of the public revenue of the Bechuanaland Protectorate for the service of the year ending the thirty-first day of March 1911.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The public revenue of the Bechuanaland Protectorate which shall for the purposes of this Proclamation be deemed to include the amount voted by the Parliament of the United Kingdom of Great Britain and Ireland as a grant in aid of the revenue of the Protectorate is hereby charged towards the service of the year ending the thirty-first day of March 1911 with a sum of £70,875 (seventy thousand eight hundred and seventy-five pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the Estimates of the Expenditure of the Protectorate for the year ending the thirty-first day of March 1911 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Bechuanaland Protectorate Appropriation Proclamation 1910 and shall have force and take effect from the first day of April 1910.

G O D S A V E T H E K I N G

Given under my Hand and Seal at Pretoria  
this 9<sup>th</sup> day of May One thousand nine hundred  
and ten.



*[Signature]*  
High Commissioner.

By *[Signature]* of His Excellency  
The High Commissioner.

*[Signature]*  
Imperial Secretary.

S C H E D U L E.

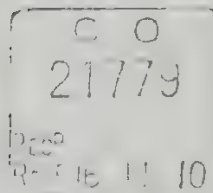
Schedule of Estimated Expenditure for the year

1910 - 1911.

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Number.	Head of Service.	Amount. £
1	Pensions - - - - -	1,076
2	Resident Commissioner - -	4,154
3	Legal - - - - -	2,550
4	District Administration - -	4,208
5	Posts - - - - -	2,700
6	Customs - - - - -	260
7	Police - - - - -	39,974
8	Miscellaneous - - - - -	6,080
9	Public Works Recurrent - -	1,600
10	Public Works Extraordinary -	2,500
11	Medical - - - - -	1,373
12	Education - - - - -	1,100
13	Veterinary - - - - -	1,800
14	Locust Destruction - - - -	500
Total		<hr/> £ 70,875 <hr/>

SANCTIONED.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 15 of 1906 which provides for the solemnization and registration of marriages within the limits of the Barotsiland-North-Western Rhodesia Order-in-Council 1899.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section twenty-six of Proclamation No.15 of 1906 shall be and is hereby amended as follows -  
by deleting the word "ten" in line six of the said section and substituting therefor the word "eight" and  
by deleting the word "four" in line seven thereof and substituting therefor the word "six".



2. This Proclamation shall be read as one with  
Proclamation No.15 of 1906 and shall have force and take  
effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Pretoria*

this *fourteenth* day of *June*

one thousand nine hundred and ten.



High Commissioner.

By Command of His Excellency the High Commissioner.

*CH. H. du Toit*

Imperial Secretary.

of 1:10.

UNCLASSIFIED

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JUL 10

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 12 of 1907 which makes provision for the removal to the Territory of Southern Rhodesia of prisoners sentenced within the limits of the Barotseland-North-Western Rhodesia Order-in-Council 1894 so as to obviate delay in the removal of such prisoners:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby proclaim declare and make known as follows:-

1. Section one of Proclamation No. 12 of 1907 shall be and is hereby amended by the addition at the end thereof of the following words that is to say:-

"A telegram from the High Commissioner stating that  
"such warrant has been signed by him shall be sufficient  
"authority to the Administrator of North-Western Rhodesia

"and all other officials concerned to proceed with the  
"removal of the prisoner or prisoners referred to in such  
"warrant provided that the said warrant itself shall there-  
"after be duly sent through the post".

2. This Proclamation shall be read as one with  
Proclamation No. 19 of 1907 and shall have force and take  
effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Victoria*  
this *twentieth* day of *June*,  
one thousand nine hundred and ten.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

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P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is expedient to make further provision for the prevention of disease among stock within the Territory defined by the Barotsiland-North-Western Rhodesia Order-in-Council 1909 (hereinafter referred to as "the Territory") and for that purpose to amend Proclamation No.18 of 1906:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section 2 of Proclamation No.18 of 1906 shall be and is hereby amended by inserting after the word "isolation" in the last line of the said section the following words:-

"detention route to be followed by stock when being  
"moved control of such stock by the owner thereof  
"or his servant".

2. Section 5 of Proclamation No.18 of 1906 shall be and is hereby amended by inserting after the number 5. in the first line of the said section the letter (a) and by adding thereto at the end of the said section the following new sub-section:-

(b) "Whenever at any place within the Territory or bordering on the Territory there exists or there is reasonable suspicion of the existence of any disease likely to affect stock, the Administrator or a District Commissioner or such other official as may be authorised thereto by the Administrator may by written notice under his hand issue such order as to movement prohibition of movement isolation or partitioning of any stock within the portion of the Territory named in such order or as to entrance into or departure from such portion of the Territory of any stock for such period as may be deemed necessary to prevent the outbreak or spread of such disease".

3. Section 6 of Proclamation No.18 of 1906 shall be and is hereby repealed and the following section substituted therefor:-

6. "Any person who shall contravene or attempt to contravene or aid any other person in contravening or attempting to contravene any order issued under the provisions of section 5 of this Proclamation shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment thereof to imprisonment with or without hard labour not exceeding six months or to both such fine and such imprisonment".

4. Section 7 of Proclamation No.18 of 1906 shall be and is hereby amended by deleting from lines three and four thereof the following words:-

"in respect of the seizure detention removal of or dealing with any stock.



No. 31 of 1910.]

## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to provide that sentence of death shall not be pronounced in Basutoland on any person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years;

Now, therefore, under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:

1. It shall not be lawful in Basutoland for sentence of death to be pronounced on or recorded against a person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years but in lieu thereof the Court shall sentence such person to be detained during the High Commissioner's pleasure and if so sentenced he shall be liable to be detained in such place and under such conditions as the High Commissioner may direct and whilst so detained shall be deemed to be in legal custody.

2. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Sixth day of July One thousand Nine hundred and Ten

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner

C. H. RODWELL,

Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

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**SANCTIONS**

**PROCLAMATION**

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide that sentence of death shall not be pronounced in the Bechuanaland Protectorate on any person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years:

NOW THEREFORE under and by virtue of the Powers in me vested I do hereby declare proclaim and make known as follows:-

1. It shall not be lawful in the Bechuanaland Protectorate for sentence of death to be pronounced on or recorded against a person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years but in lieu thereof the Court shall sentence such person to be detained during the High Commissioner's pleasure and if so sentenced he shall be liable to be detained in such place and under such conditions as the High Commis-

-sioner -

sioner may direct and whilst so detained shall be deemed to be in legal custody.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Pretoria*

this *1<sup>st</sup>* day of *July*  
one thousand nine hundred and ten.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

of 1910.

## SANCTIONS

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS the Criminal Procedure Code 1903 of the Transvaal has been applied mutatis mutandis to the territory of Swaziland and is in force in the said territory:

AND WHEREAS it is desirable to amend the said Code as regards its application to Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His late Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1908 I do hereby declare proclaim and make known as follows:-

1. Notwithstanding anything contained in section two hundred and fort,-two of the said Criminal Procedure Code 1903 or in any other law in force in Swaziland it shall not be lawful in any Court of Swaziland for sentence of death to be pronounced on or recorded against a person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years but in lieu thereof the Court shall sentence such person to be detained during the High Commissioner's pleasure and if so sentenced he shall be liable to be detained in such place and under such conditions as the High Commis-

-sioner -

alonger may direct and whilst so detained shall be deemed to be in legal custody.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G

GIVEN under my Hand and Seal at

this *6<sup>th</sup>* day of *July*  
one thousand nine hundred and ten.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.



SANCTIONED

24.50

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Swaziland Arms and Ammunition Proclamation 1908 so as to provide for the issue of licenses for rifles to members of any recognized Rifle Club in Swaziland free of charge:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Sub-section (3) of section three of the Swaziland Arms and Ammunition Proclamation 1908 shall be and is hereby amended by the addition at the end thereof of the following words:-

"Provided that a license in respect of a rifle  
"issued to any member of a rifle club duly recognised  
"by the Government of Swaziland may be issued without  
"payment of any fee: such license shall only be  
"issued for one rifle for each member and shall be  
"subject to the condition in addition to but not in  
"substitution for the provisions contained in sub-  
"section (4) of this section that it shall remain

- valid -

"valid for so long only as the person to whom it is  
"issued shall be a member of such rifle club and a  
"notification to the Assistant Commissioner or such  
"other person as aforesaid from the Secretary of any  
"such club to the effect that such person has ceased  
"to be a member shall be deemed to be conclusive  
"evidence of his so ceasing and thereupon such license  
"shall become void and of no effect".

2. This Proclamation shall be read as one with the  
Swaziland Arms and Ammunition Proclamation 1908 and shall  
have force and take effect from the date of its publication  
in the Gazette.

G O D S A V E T H E K I N G .

GIVEN under my Hand and Seal at *Pretoria*

this

*6<sup>th</sup>* day of *July*

thousand nine hundred and ten.

*G. Gladstone*

High Commissioner.

By Command of His Excellency the High Commissioner.

*G. Gladstone*

Imperial Secretary.

SANCTIONED

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is expedient to postpone the date of the taking effect of Proclamation No.19 of 1910 providing for the establishment of a Deeds Office in Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section six of Proclamation No.19 of 1910 shall be and is hereby repealed and the following section substituted therefor -

"6. This Proclamation shall have force and take effect from a date to be fixed by the High Commissioner by notice in the Gazette".

2. This Proclamation shall be read as one with  
Proclamation No. 19 of 1910 and shall have force and take  
effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Port Louis*

this 25<sup>th</sup> day of *July*

one thousand nine hundred and ten.



*G. H. D. M.*

High Commissioner.

By Command of His Excellency the High Commissioner.

*G. H. D. M.*

Imperial Secretary.

p. 39 of 1910.

ANNEXED

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## P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to make provision for the better protection of the rights of the natives of Swaziland to areas set apart under section four of the Swaziland Concessions Partition Proclamation 1907 for the sole and exclusive use and occupation of such natives:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation "native area" shall mean any piece of land set apart for the sole and exclusive use and occupation of natives of Swaziland under section four of the Swaziland Concessions Partition Proclamation 1907; "game" and "hunt" shall have the meanings respectively attached thereto in the Transvaal Game Preservation Ordinance 1905 as in force in Swaziland; "mineral concession" shall mean any concession made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908 giving a right to precious or base metals precious stones minerals or mineral products on any areas.



2. (1) No person other than a native of Swaziland shall without the written permission of the Resident Commissioner use or occupy any portion of a native area or allow any cattle or sheep which are his property or in his charge to graze upon any native area or burn or cause to be burnt grass on any native area: provided however that nothing in this section contained shall affect the exercise in respect of any native area of rights created by law or held under any mineral concession.

(2) Any permission such as is referred to in this section may at any time be withdrawn by notice in writing from the Resident Commissioner.

(3) Before granting any permission or before withdrawing any permission under the provisions of the preceding subsections of this section the Resident Commissioner shall satisfy himself that there is no objection to the grant or withdrawal of such permission on the part of the Paramount Chief and Council of Swaziland or on the part of any natives who in the opinion of the Resident Commissioner are likely to be affected thereby.

3. No person other than a native of Swaziland shall without the written permission of the Resident Commissioner hunt any game on any native area.

4. Any person who contravenes any of the provisions of sections two and three of this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not

exceeding three months.

5. (1) Whenever any person shall be convicted by a Court of an offence under this Proclamation and it shall appear that such person has by that offence caused damage to any native area such Court may at the request of the Resident Commissioner but in the presence of the convicted person inquire summarily and without pleadings into the amount of damage so caused.

(2) Upon proof of such amount such Court shall give judgment therefor in favour of the Resident Commissioner and against the convicted person and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such Court; Provided that judgment shall not be given under this section for a sum exceeding the civil jurisdiction of such Court.

(3) The Resident Commissioner shall according to his discretion distribute any amount recovered by him under this section in respect of damage caused to any native area among the natives who appear to him to have been affected by such damage or otherwise apply such amount for the benefit of such natives.

(4) Where judgment has been given in favour of the Resident Commissioner under this section in respect of any damage caused to a native area no action in respect of such damage shall be maintainable by any other person.

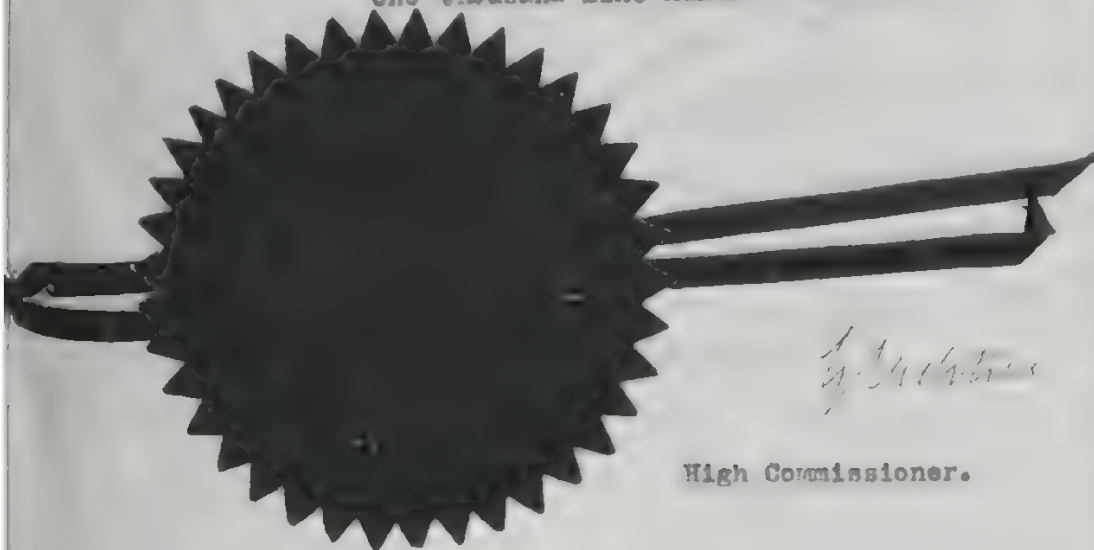
6. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at *Pretoria*

this *Twenty-fifth* day of *Feb*

one thousand nine hundred and ten.



*J. H. M. M.*

High Commissioner.

By Command of His Excellency the High Commissioner.

*Imperial Secretary*

Imperial Secretary.

SANCTIONED.

20051

20 1910

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the provisions of the Swaziland Concessions Partition Proclamation 1907 and Proclamation No.15 of 1909 relating to the appointment by the Chief Justice of the Transvaal of an arbitrator to determine all questions of compensation which are under the provisions of the Swaziland Concessions Partition Proclamation 1907 to be determined by such arbitrator:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Sub-section three of section four and sections five and seven of the Swaziland Concessions Partition Proclamation 1907 shall be and are hereby amended by the deletion therefrom of the words "the Chief Justice of the Transvaal" wherever they occur in the said sub-section or sections and the substitution therefor of the words "the Judge President or the Senior Judge for the time being resident in the Transvaal of the Supreme Court of South Africa Transvaal Provincial Division".

2. Section fourteen of Proclamation No.15 1909 shall be and is hereby amended -



- (a) by the deletion therefrom of the words "the Chief Justice of the Transvaal" and the substitution therefor of the words "the Judge President or the Senior Judge for the time being resident in the Transvaal of the Supreme Court of South Africa Transvaal Provincial Division";
- (b) by the deletion of the words "the said Chief Justice" and the substitution therefor of the words "the said Judge President or other Judge as aforesaid".

3. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and Proclamation No.15 of 1909 and any Proclamation amending the same and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Pretoria*

this *twentieth* day of *Jan*

one thousand nine hundred and ten.



*W. H. D. ...*

High Commissioner.

By Command of His Excellency the High Commissioner.

*W. H. D. ...*

Imperial Secretary.



ANNOUNCEMENT

21845

20 DEC 1910

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision out of the public revenue of Swaziland for the service of the year ending the thirty-first day of March 1911:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The public revenue of Swaziland is hereby charged towards the service of the year ending the thirty-first day of March 1911 with a sum of £45,133 (forty-five thousand one hundred and thirty-three pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the Estimates of the Expenditure of Swaziland for the year ending the thirty-first day of March 1911 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Swaziland Appropriation Proclamation 1910 and shall have force and take effect from the first day of April 1910.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria on

the twenty-fifth day of July one thousand

nine hundred and ten.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

S C H E D U L E.

No.	Head of Service.	Amount.
1.	Establishments - - - - -	£10,071
2.	Police - - - - -	14,666
3.	Transport - - - - -	940
4.	Posts and Telegraphs - - - - -	2,016
5.	Customs - - - - -	376
6.	Administration of Justice - - - - -	2,664
7.	Public Works - - - - -	1,595
8.	Medical - - - - -	2,111
9.	Education - - - - -	1,539
10.	Veterinary - - - - -	821
11.	Allowances et cetera, Native Chiefs -	1,050
12.	Pensions - - - - -	681
13.	Interest - - - - -	3,600
14.	Refunds of Revenue - - - - -	50
15.	Miscellaneous - - - - -	900
16.	Sinking Fund - - - - -	2,054
Total		<u>£45,133</u>

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation No.35 of 1908 which amended the Swaziland Administration Proclamation 1907 (hereinafter referred to as "the principal law") and to make further provision for the appointment of Deputy Assistant Commissioners in Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1908 I do hereby declare proclaim and make known as follows:-

1. Proclamation No.4 of 1908 shall be and is hereby repealed.

2. Section two of the High Commissioner's Proclamation No.35 of 1908 shall be and is hereby amended -

(a) by the insertion therein immediately after the words "for any area" of the words "or part of an area";

(b) by the deletion therefrom of the words "a Deputy Assistant Commissioner" in line three thereof and by

- the -

the substitution therefor of the words "one or  
"more Deputy Assistant Commissioners".

3. This Proclamation shall be read as one with  
Proclamation No.35 of 1908 and the principal law and shall  
have force and take effect from the date of its publi-  
cation in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Pretoria*

this *twenty fifth* day of *July*

one thousand nine hundred and ten.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.



UNRECORDED

20018

20 10 10

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation No. 9 of 1908 (hereinafter referred to as the said Proclamation) so as to provide for the receipt of pensions by the holders of certain offices in the Government of Swaziland not included in the Schedule to the said Proclamation:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. Section two of the said Proclamation shall be and is hereby amended by the insertion therein immediately after the words "any public officer" the words "who is named or described in the Schedule to this Proclamation or".

2. The Schedule to the said Proclamation shall be and is hereby amended

(a) by the insertion therein immediately after the words "Assistant Commissioners" of the words "Deputy Assistant Commissioners";

(b) by the addition at the end thereof of the words  
"The present holder of the appointment of Government  
"Native Teacher at the Zombode School".

3. This Proclamation shall be read as one with the  
said Proclamation as amended by the High Commissioner's  
Proclamation No. 59 of 1908 and the High Commissioner's  
Proclamation No. 1 of 1909 and the amendments hereby made  
shall be deemed to have been inserted in the said Proclama-  
tion at the date of the taking effect thereof and to have had  
effect from such date.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria this  
twenty-fifth day of July, one thousand nine  
hundred and ten.



*Gladstone*

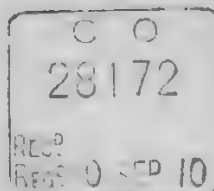
High Commissioner.

By Command of His Excellency the High Commissioner.

*G. H. H.*

Imperial Secretary.

244  
SANCTIONS



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS an error has been made in an award of the Special Commissioner appointed under the Swaziland Concessions Partition Proclamation 1907 appearing in the report of the Special Commissioner dated the 23rd day of July 1909 which award amongst others took effect on the first day of January 1910 under and by virtue of the High Commissioner's Proclamation No. 21 of 1909:

AND WHEREAS it is expedient to amend such award:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Anything to the contrary notwithstanding in section two of Proclamation No. 21 of 1909 the description

of "Right of Way No.3: Peak-Belegana Road: Native Area  
No.5" appearing as an award of a right-of-outspan in Part  
III. of the Special Commissioner's Report dated the 23rd  
day of July 1909 shall be deleted therefrom and the following  
description substituted in lieu thereof:-

"Komati River - a quarter of a square mile bounded on the  
"south by the Komati River and on the west by the common  
"boundary of Concessions Nos.90 L and 92 L between  
"beacons 111 and 130 the other two sides being as nearly  
"as possible equal and at right angles to each other".

2. This Proclamation shall be read as one with  
Proclamation No.21 of 1906 and shall be deemed to have had  
force and taken effect from the first of January 1910.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria  
this *ninth* day of *August*  
one thousand nine hundred and ten.

*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner

*[Signature]*  
Imperial Secretary.

"the said Tariff" is hereby amended as follows:-

- (1) In item 79 the words "various Governments of the Union" shall be deleted and the words "High Commissioner" shall be substituted in lieu thereof.
- (2) Item 111 shall be deleted and the following shall be substituted in lieu thereof:-  
"111. School furniture and requisites being all articles certified by the Administrator to be for use in any school".
- (3) In item 115 the words "the Union" shall be deleted and the words "the Territory" shall be substituted in lieu thereof.

4. Class V. of the said Tariff is hereby amended as follows:-

- (1) Item 130 shall be deleted.
- (2) Item 131 is hereby amended by the omission of the words "the Union" wherever they occur and by the substitution in lieu thereof of the words "such Colony State or Territory as may from time to time be approved by the Administrator with the consent of the High Commissioner".
- (3) In Item 142 the words "imported into the Union overland" shall be deleted.
- (4) In Item 162 the words "any Government belonging to the Union" shall be deleted and the words "the Government of the Territory" shall be substituted in lieu thereof.
- (5) In Item 171 the words "the Union" shall be deleted and the words "the Territory" substituted in lieu thereof.



5. Class VI. of the said Tariff is hereby amended by the deletion of the words "the Union" and the substitution of the words "the Territory" in lieu thereof.

6. Section 6 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby amended as follows:-

- (1) by the deletion of the words "the Dominion of Canada and" and the word "other";
- (2) by the deletion of all the words after "equivalent privilege to" and the substitution of the words "the Territory".

7. Section 8 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby deleted and the following section shall be substituted in lieu thereof:-

"8. The Administrator with the approval of the High Commissioner may for and on behalf of the Territory enter into agreements with any Colony State or Territory in South or Central Africa respecting

- (1) the importation removal and exportation of goods;
- (2) the payment of duties thereon or of any amount in commutation of such duties;
- (3) charges for collection of duties".

8. Section 9 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" as amended by section 4 of the "Barotsiland Customs Amendment Proclamation 1908" is hereby repealed and the following section is substituted in lieu thereof:-

"9. Under such regulations as he may approve on that  
- behalf -

behalf the High Commissioner may by notice in the  
Gazette:-

- (1) suspend the duty imposed upon fresh chilled and frozen meat and on animals for slaughter;
- (2) grant a rebate of the whole or part of the duty on
  - (a) methylated spirits;
  - (b) alcohol of South African manufacture intended solely for manufacturing or scientific purposes or for fuel; and
  - (c) soap or other substances imported for and exclusively used in connection with the industry of woolwashing;
- (3) grant a rebate of the whole or part of the duty upon goods intended for consumption in places outside the Territory including the payment to the Government of any other Colony State or Territory of the whole or a portion of the duties collected thereon;
- (4) allow either by free importation or rebate an abatement of the duties on goods imported by and for the use of members of His Majesty's Regular Forces and on wines and spirits for the use of the Administrator;
- (5) grant a rebate or refund of duty on any raw semi-manufactured or manufactured material used in the manufacture of any article within the Territory on its exportation".

9. Section 10 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby amended by the deletion of the words "within the Customs Union for consumption -

consumption therein until the amount of the duty rebated or suspended shall have been paid thereon and" and the insertion of the words "from this Territory for consumption elsewhere".

10. Section 11 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby amended by the deletion of the words "Territory with the Customs Union" and the substitution of the words "other territory" in lieu thereof.

11. Section 12 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby amended by the deletion of the words "except by consent of the other Parties to the Customs Union".

12. Section 13 of the "Customs Union and Tariff (Barotsiland) Proclamation 1906" is hereby amended by the deletion therefrom of all words after the word "prohibited" down to the end of the said section.

13. Section 9 of the "Customs Management (Barotsiland) Proclamation 1906" is hereby amended by the deletion therefrom of all words after the word "forfeited" down to the end of the said section.

14. Section 13 of the "Customs Management (Barotsiland) Proclamation 1906" is hereby amended as follows:-

- (1) by the deletion of the words "or imported" after the words "were purchased" where such words first occur and the insertion of the words "for importation" in lieu thereof;
- (2) by the deletion of the words "The above declaration

signed in the presence of :

C. D.

Collector (or other proper officer)"

in the prescribed form of declaration; and  
(2) by the deletion of the words "and shall be  
subscribed with the name of the importer thereof  
in the presence of the Officer of Customs".

15. Section 15 of the "Customs Management (Barotsiland)  
Proclamation 1906" is hereby amended by the insertion of  
the words "or description" after the word "value" where  
it last occurs in the said section.

16. Section 19 (1) of the "Customs Management  
(Barotsiland) Proclamation 1906" is hereby amended by  
the insertion of the words "and until the necessary entry  
has been passed" after the words "for the security of the  
duties thereon".

17. This Proclamation shall be read as one with  
the "Customs Union and Tariff (Barotsiland) Proclamation  
of 1906" and the "Barotsiland Customs Amendment Procla-  
mation 1908" and save as amended or altered in this  
Proclamation, the duties set forth in the Schedules to  
those Proclamations shall be raised levied collected  
and paid.

G O D S A V E T H E K I N G !

- GIVEN -

GIVEN under my Hand and Seal at *Victoria*

this *fourth* day of *June*

one thousand nine hundred and ten.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Registration and Control of Dogs Proclamation 1908 in order to extend and amplify the provisions for checking and exterminating the disease of rabies within the territory defined by the Barotsiland-North-Western Rhodesia Order-in-Council 1899 (hereinafter referred to as "the territory"):

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section seven of the Registration and Control of Dogs Proclamation 1908 shall be and is hereby amended by the addition after the end of sub-section (b) thereof of the following new sub-sections -

"(c) to prohibit or regulate the introduction of dogs into the territory from any or all of the adjacent territories;

(d) to prohibit or regulate the removal of dogs from any place to any other place within the territory:

(e) to authorise or require the control isolation muzzling or destruction of any dogs within the territory".

2. The Registration and Control of Dogs Proclamation 1908 shall be and is hereby amended by the addition thereto of a new section as follows:-

"10a. The word "dog" in this Proclamation shall include any animal liable to the disease of rabies which the Administrator may hereafter specify by Notice in the Gazette".

3. This Proclamation may be cited for all purposes as the "Registration and Control of Dogs Amendment Proclamation 1910" and shall be read as one with the "Registration and Control of Dogs Proclamation 1908" and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Victoria*

this *eight* day of *August*

one thousand nine hundred and ten.



*[Signature]*

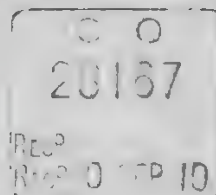
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

SANCTIONED.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide that sentence of death shall not be pronounced in the Territory included within the limits of the Barotsi and North-Western Rhodesia Order-in-Council 1899 hereinafter referred to as "the Territory" on any person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. It shall not be lawful in the Territory for sentence of death to be pronounced on or recorded against a person convicted of an offence punishable with death if in the opinion of the Court such person was at the time of the commission of the offence under the age of sixteen years but in lieu thereof the Court shall sentence such person to be detained during the High Commissioner's pleasure and if so sentenced he shall be liable to be detained in such place and under such conditions as the High Commissioner may direct and whilst so detained shall be deemed to be in legal custody.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria

this 15<sup>th</sup> day of August 1910

one thousand nine hundred and ten.



*H. H. H. H.*

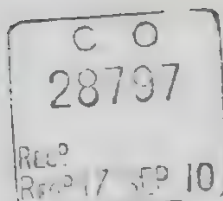
High Commissioner.

By Command of His Excellency the High Commissioner.

*C. H. H. H.*

Imperial Secretary.

SANCTIONED



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the Swaziland East Coast Fever Prevention Proclamation 1910 so as to extend the period of isolation and for other purposes:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section five of the Swaziland East Coast Fever Prevention Proclamation 1910 shall be and is hereby amended as follows:-

- (a) by the deletion of the word "fourteen" and the substitution of the word "thirty" in lieu thereof;
- (b) by the addition at the end of the said section of the following words - "Any owner or any person having



"the custody of cattle isolated under the provisions of  
"this section may be ordered by any official to furnish  
"such a number of herds as in the opinion of such  
"official shall be sufficient to herd and isolate such  
"cattle efficiently".

2. This Proclamation shall be read as one with the  
Swaziland East Coast Fever Prevention Proclamation 1910  
and shall have force and take effect from the date of its  
publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria

this *19th* day of August one thousand  
nine hundred and ten.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

## PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is expedient in view of the dissolution of the South African Customs Union to make provision for the imposition and collection of Customs duties in the territory of Basutoland and for that purpose to amend the Customs Law and Customs Tariff in force in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. This Proclamation may be cited for all purposes as the "Basutoland Customs Proclamation 1910" and shall have force and take effect from the first day of July 1910.

2. So much of the High Commissioner's Proclamations Nos. 8 of 1906 and 44 of 1908 and of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

3. Class IV of the Tariff as set out in the Customs Union Convention of 1906 (hereinafter referred to as "the said Tariff") shall be and is hereby amended as follows:—

(1) In Item 79 the words "various Governments of the Union" shall be deleted and the words "various British South African Governments which are parties to Customs Agreements in force with the Government of Basutoland" substituted in lieu thereof.

(2) Item 111 shall be deleted and the following shall be substituted in lieu thereof:—

"111. School furniture and requisites being all articles certified by the Resident Commissioner to be for use in any school."

(3) In Item 115 the words "the Union" shall be deleted and the words "any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

4. Class V of the said Tariff shall be and is hereby amended as follows:—

(1) In Item 130 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

(2) Item 131 is hereby amended by the omission of the words "the Union" wherever they occur and by the substitution in lieu thereof of the words "any other of the territories which formerly comprised the South African Customs Union".

(3) In Item 142 the words "imported into the Union overland" shall be deleted and the words "imported overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

(4) In Item 162 the words "belonging to the Union" shall be deleted and the words "which formerly belonged to the South African Customs Union" shall be substituted in lieu thereof.

(5) In Item 171 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

5. Class VI of the said Tariff shall be and is hereby amended by the deletion of the words "the Union" and the substitution of the word "Basutoland" in lieu thereof.

**SANCTIONED.**

10. 50 of 1910

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient in view of the dissolution of the South African Customs Union to make provision for the imposition and collection of Customs Duties in the Bechuanaland Protectorate and for that purpose to amend the Customs Law and Customs Tariff in force in the Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. This Proclamation may be cited for all purposes as the "Bechuanaland Protectorate Customs Proclamation 1910" and shall have force and take effect from the first day of July 1910.

2. So much of the High Commissioner's Proclamations Nos. 9 of 1906 and 45 of 1908 and of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

3. Class IV. of the Tariff as set out in the Customs Union Convention of 1906 (hereinafter referred to as "the said Tariff") shall be and is hereby amended as follows:-

(1) In Item 79 the words "various Governments of the Union" shall be deleted and the words "various British South African Governments which are parties to Customs Agreements in force with the Government of the Bechuanaland Protectorate" substituted in lieu thereof;

(2) Item III shall be deleted and the following shall be substituted in lieu thereof:-

"111. School furniture and requisites being  
"all articles certified by the Resident  
"Commissioner to be for use in any school";

(3) In Item 115 the words "the Union" shall be deleted and the words "any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

4. Class V. of the said Tariff shall be and is hereby amended as follows:-

(1) In Item 130 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof;

(2) Item 131 is hereby amended by the omission of the words "the Union" wherever they occur and by the substitution in lieu thereof of the words "any other of the territories which formerly comprised the South African Customs Union";

(3) In Item 142 the words "imported into the Union overland" shall be deleted and the words "imported overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof;

(4) In Item 162 the words "belonging to the Union" shall be deleted and the words "which formerly belonged to the South African Customs Union" shall be substituted in lieu thereof;

(5) In Item 171 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the South African Customs Union" shall be substituted in lieu thereof.

5. Class VI. of the said Tariff shall be and is hereby amended by the deletion of the word "Union" and the substitution of the words "Bechuanaland Protectorate" in lieu thereof.

6. Section four of the High Commissioner's Proclamation dated the 12th of June 1893 shall be and is hereby amended by the deletion of the words "the Union" and by the substitution in lieu thereof of the words "the various British South African territories the Governments of which are parties to Customs Agreements in force with the Government of the Bechuanaland Protectorate"

7. Section one of Proclamation No.9 of 1906 shall be and is hereby repealed.

8. Section six of Proclamation No.9 of 1906 shall be and is hereby amended by the deletion of all words after the words "reciprocal privileges to the" and the substitution in lieu thereof of the words "Bechuanaland Protectorate; provided that no such rebate shall be granted in the case of any particular



Colony, Protectorate or Possession until on and after a date to be mutually agreed upon and publicly notified by the various British South African Governments which are parties to Customs Agreements in force with the Government of the Bechuanaland Protectorate".

9. Section seven of Proclamation No.9 of 1906 as amended by section one of Proclamation No.45 of 1908 shall be and is hereby further amended as follows:-

(1) by the deletion therefrom of the words "the Customs Union Convention" and the substitution in lieu thereof of the words "the Customs Agreements for the time being in force between the British South African Governments and the Government of the Bechuanaland Protectorate"

(2) by the deletion of the words "of Union manufacture" in paragraph (b) thereof and the substitution in lieu thereof of the words "manufactured in any of the territories which formerly comprised the South African Customs Union and"

10. Section eight of Proclamation No.9 of 1906 shall be and is hereby repealed and the following section shall be substituted in lieu thereof:-

"8. The High Commissioner may for and on behalf of the Bechuanaland Protectorate enter into arrangements with any Colony State or Territory in South or Central Africa respecting -

(1) the importation removal and exportation of goods;

(2) the payment of duties thereon or of any amount in commutation of such duties;

(3) charges for collection of duties".

11. Section ten of Proclamation No.9 of 1906 shall be and is hereby amended as follows:-

(1) by the deletion of the words "Colony or Territory in" and the substitution in lieu thereof of the words "of the territories which formerly comprised";

(2) by the deletion of the words "any other portion of the Union" and the substitution of the words "the Bechuanaland Protectorate" in lieu thereof.

12. Section eleven of Proclamation No.9 of 1906 as amended by section one of Proclamation No.28 of 1906 shall be and is hereby further amended by the insertion after the words "manufactured within" of the words "any other of the territories which formerly comprised".

G O D S A V E T H E K I N G !

Given under my Hand and Seal at

this 9<sup>th</sup> day of September One thousand  
and ten.

High Commissioner.

of His Excellency  
The High Commissioner.

Imperial Secretary.

No. 51 of 1910

**SANCTIONED.**

PROCLARATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS the Customs Amendment Ordinance 1906 of the Transvaal (hereinafter referred to as the Customs Amendment Ordinance) as amended by the Transvaal Amendment Proclamation 1908 is save as is in section one of the Transvaal Customs Tariff Proclamation 1906 provided in force in Swaziland:

AND WHEREAS it is expedient in view of the constitution of the South African Customs Union to make provision for the imposition and collection of customs duties within Swaziland and for that purpose to amend the Customs Law and Customs Tariff in force in Swaziland:

NOW KNOW YE that under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare as follows:-

1. This Proclamation may be cited for all purposes as the "Swaziland Customs Proclamation 1910" and shall have force and take effect from the first day of July 1910.

2. So much of the said Ordinance as regards its application to Swaziland of the Swaziland Customs Tariff

Proclamation 1906 and of the Swaziland Customs Amendment Proclamation 1908 and of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

3. Class IV. of the Tariff as set out in the Customs Union Convention of 1906 hereinafter referred to as "the said Tariff" shall be and is hereby amended as regards its application to Swaziland as follows:-

(1) In Item 79 the words "various Governments of the Union" shall be deleted and the words "Various British South African Governments which are Parties to Customs Agreements in force with the Government of Swaziland" shall be substituted in lieu thereof;

(2) Item III shall be deleted and the following shall be substituted in lieu thereof -

"III. School Furniture and requisites being

"all articles certified by the Resident

"Commissioner to be for use in any school";

(3) In Item 115 the words "the Union" shall be deleted and the words "any of the territories which formerly comprised the South African Customs Union" shall be substituted in lieu thereof.

4. Class V. of the said Tariff shall be and is hereby amended as regards its application to Swaziland as follows:-

(1) In Item 130 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the

South African Customs Union" substituted in lieu thereof;

(2) Item 131 is hereby amended by the omission of the words "the Union" wherever they occur and by the substitution in lieu thereof of the words "any other of the territories which formerly comprised the South African Customs Union";

(3) In Item 142 the words "imported into the Union overland" shall be deleted and the words "imported overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof;

(4) In Item 162 the words "belonging to the Union" shall be deleted and the words "which formerly belonged to the South African Customs Union" shall be substituted in lieu thereof;

(5) In Item 171 the words "into the Union overland" shall be deleted and the words "overland into any of the territories which formerly comprised the South African Customs Union" substituted in lieu thereof.

5. Class VI. of the said Tariff shall be and is hereby amended as regards its application to Swaziland by the deletion of the words "the Union" and the substitution of the word "Swaziland" in lieu thereof.

6. Section five of the said Ordinance shall be and is hereby amended as regards its application to Swaziland by the deletion of all words after the words "reciprocal privilege to" and the substitution in lieu



Africa respecting

- (1) the importation removal and exportation of goods;
- (2) the payment of duties thereon or of any amount in commutation of such duties;
- (3) charges for collection of duties".

8. Section twelve of the said Ordinance shall be and is hereby amended as regards its application to Swaziland -

- (1) By the deletion of the words "Colony or Territory in" and the substitution in lieu thereof of the words "of the territories which formerly comprised"
- (ii) by the deletion of the words "any other portion of the Union" and the substitution of the word "Swaziland" in lieu thereof.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Pretoria*  
this *9th* day of *September* One thousand  
nine hundred and ten.

*[Signature]*  
High Commissioner

By Command of His Excellency the

High Commissioner.

*[Signature]*  
Imperial Secretary.

**SANCTIONED.**

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient further to amend the Swaziland Administration Proclamation 1904 and the Swaziland Concessions Partition Proclamation 1907 with respect to the payment and allocation of survey costs and costs of diagrams incurred under the provisions of the said two Proclamations:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Sub-section (1) of section sixteen of the Swaziland Administration Proclamation 1904 shall be and is hereby amended by the addition at the end thereof of the following words -

"And provided further that in any case where a concession will expire in less than ten years from the date when the first instalment of such pro rata share becomes due as above provided or in any case where a concession is limited by the life or lives of the holder or holders of the same the said pro rata share shall be payable in such instalments and

"and in such manner as the Resident Commissioner may  
"with the approval of the High Commissioner determine"  
and such additional words shall be deemed to have been  
inserted in the said sub-section at the date of the taking  
effect of the Swaziland Concessions Partition Proclamation  
1907.

2. Section four of the Swaziland Concessions Parti-  
tion Proclamation 1907 as amended by section eleven of  
Proclamation No. 15 of 1909 and section four of Proclama-  
tion No. 21 of 1909 shall be and is hereby further amended -

(a) by the insertion in sub-section (4) thereof after  
the words "free of cost to the Concessionaire" of the  
words "except as hereinafter provided";

(b) by the addition at the end of sub-section (4)  
thereof of the following words:-

"The costs of all surveys made and all diagrams framed  
"in order to carry out the powers of this sub-section  
"shall be paid and dealt with in the same manner in all  
"respects as is provided for by sub-section (1) of this  
"section save and except that no concession conferring  
"on the concessionaire a right to cut and take timber  
"only on or in connection with any land shall be liable  
"to pay any share of such costs".

3. Section five of Proclamation No. 15 of 1909 shall  
be and is hereby amended as follows:-

(a) by the insertion in sub-section (3) thereof of the  
word "like" immediately after the word "other";

(b) by the deletion from sub-section (3) thereof of the  
words "and no survey costs";

(c) by the addition at the end of the said section of

the following new sub-section -

"(5) The costs of all surveys made and all diagrams framed in connection with any compensation scheme shall after such scheme has become final and binding as provided in sub-section (1) of this section be paid and dealt with in the same manner in all respects as is provided for by sub-section (1) of section four of the Swaziland Concessions Partition Proclamation 1907 as amended by section four of Proclamation No. 21 of 1909".

4. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any Proclamation amending the same and shall have effect as provided in section one have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at Pretoria

this *6<sup>th</sup>* day of September 1911  
thousand nine hundred and ten.



*G. H. C. M.*

High Commissioner.

Command of His Excellency  
the High Commissioner.

*L. J. M.*  
Imperial Secretary.

14.53 of 1910  
**SANCTIONED.**

**PROCLAMATION**

**BY HIS EXCELLENCY THE HIGH COMMISSIONER.**

WHEREAS it is expedient that the provisions of the "Bills of Exchange Act 1893" (Act No.19 of 1893) of the Cape of Good Hope Province of the Union of South Africa should have effect within the Bechuanaland Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:

1. The provisions of the "Bills of Exchange Act 1893" (Act No.19 of 1893) of the Cape of Good Hope Province of the Union of South Africa shall be in force and have effect within the limits of the Bechuanaland Protectorate.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

**G O D S A V E T H E K I N G !**

Given under my Hand and Seal at *Pretoria*  
this *8th* day of *Sept* 1910 One thousand



*G. H. M. S.*  
High Commissioner.

Command of His Excellency  
The High Commissioner.

*C. H. Rodwell*  
Imperial Secretary.



ENACTED.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation dated the 18th day of November 1891 providing for the commutation and carry-out of sentences imposed by Criminal Courts in the Bechuanaland Protectorate:

NOW KNOW YE that by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:-

1. Section one of the High Commissioner's Proclamation dated the 18th day of November 1891 shall be and is hereby amended as follows:-

(a) by inserting after the word "commute" the words "or remit";

(b) by inserting after the figures "1891" the words "or to grant a pardon either free or subject

to lawful conditions to any offender convicted by  
any such Court".

3. This Proclamation shall have force and  
take effect from the date of its publication in the  
Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and seal at *Portoria*  
this *third* day of *October* One thousand  
Nine hundred and Ten.



*[Signature]*

High Commissioner.

By *[Signature]* and of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

~~CANCELLATION~~

No. 247 of 1910

# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient that the High Commissioner's Proclamation No.4 of 1902, dated the first day of July, 1902, establishing regulations for natives within the limits of the "Southern Rhodesia Order in Council, 1898", should be repealed and that further and other provision should be made for the conduct of native affairs within the said limits:

NOW, THEREFORE, under and by virtue of the powers in me vested I do hereby proclaim, declare and make known as follows :

## PART I. PRELIMINARY.

1. The Proclamation of His Excellency the High Commissioner No.4 of the first day of July, 1902, and such provisions of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation, shall be and the same are hereby repealed except as to things done, offences committed, penalties or liabilities incurred or proceedings commenced or pending under, by virtue of or against any of the said repealed laws.

2. In this Proclamation the following terms shall have the meaning assigned to them by this section unless another meaning appears clearly from the context to be intended:-

- (1) "Chief" means a native appointed by the Administrator in Council to exercise control over a tribe.
- (2) "Tribe" means a number or collection of natives forming a political organisation or community under the control or leadership of a chief which organisation or community shall have been recognised or established by the Administrator in Council.
- (3) "Headman" means a native exercising control under a chief over such section of a tribe as may be defined by its chief and who is appointed by such chief with the approval of the Administrator in Council.
- (4) "Head of a Kraal" means the native who is according to native law and custom the senior member of the kraal or who is recognised as such by the other members of the kraal.
- (5) "Kraal" means a collection of huts and ordinary residences of natives. It is subject to and under the control of a kraal head and may consist of one or more houses or huts. For the purposes of this Proclamation individual dwellings occupied by natives on Mission Stations or private lands are to be deemed kraals.

(6) "Reserve" means lands the property of the British South Africa Company set apart for the purposes of native settlements exclusively.

(7) "Vacant Land" means:-

(a) Land which has been alienated by grant or otherwise by the British South Africa Company but which is not occupied.

(b) Land still available for settlement.

(8) "Tribal Area" means the area occupied by any natives placed under the control of one chief.

(9) "Sectional Area" means the area occupied by natives forming a section of a tribe and placed under the control of a headman.

(10) "The Territory" means the territory within the limits of the Southern Rhodesia Order in Council 1923.

(11) "Native Commissioner" includes an Acting Native Commissioner and an Assistant Native Commissioner except where otherwise expressly specified.

(12) "District" means a district defined by the Administrator in Council with the approval of the High Commissioner for the purposes of native administration.

## PART II. THE ADMINISTRATOR

3. The Administrator in Council for the time being exercises over all natives all political power and authority.

4. The Administrator in Council appoints all Chiefs to preside over tribes and may divide existing



tribes into two or more parts or may amalgamate tribes or parts of tribes into one tribe as may be necessary or as the good government of the natives may in his opinion require.

5. The Administrator in Council may subject to the approval of the High Commissioner remove any chief for just cause from his position as such chief and may also subject to the like approval order his removal with his family and property from any reserve or vacant land to any reserve or vacant land provided that no such removal to vacant land alienated by the British South Africa Company and held under title shall be effected except with the consent of the owner thereof.

6. With the concurrence of the High Commissioner the Administrator in Council may call upon Chiefs to supply men for the defence of the territory and for the suppression of disorder and rebellion within its borders and may call upon such chiefs personally to render such service.

7. For the purpose of native administration the Administrator in Council may from time to time subject to the approval of the High Commissioner divide and sub-divide the territory into provinces districts and sub-districts as may seem to him desirable. Should it be found on so dividing the territory that natives of one tribe have been settled in different districts by such division they shall be allowed to remove into the district in which their chief is settled or to affiliate

themselves to the tribe of a chief in the district in which they may be living.

PART III. THE NATIVE DEPARTMENT.

8. The Secretary for Native Affairs for the time being shall be the principal administrative officer in regard to native affairs. The Administrator for the time being may exercise the powers and functions hereinafter delegated to the Secretary for Native Affairs.

9. In case the Administrator for the time being shall be Secretary for Native Affairs there shall be an assistant to the Administrator who shall be the principal executive officer in regard to native affairs. He shall on behalf of the Secretary for Native Affairs be accessible to and receive petitions whether verbal or written from all natives and shall in every case where an injustice or wrong exists (not being a private wrong remediable at law) take the necessary steps to protect and right the person or persons wronged.

10. The Secretary aforesaid shall in all cases of disputed chieftainship or succession to chieftainship and of tribal quarrels or dissatisfaction make enquiry personally or otherwise as may be deemed best.

11. In each province of the territory as defined from time to time by the Administrator in Council there shall be a Chief Native Commissioner who shall discharge such duties and functions as may from time to time be determined and defined by the Administrator in Council. The appointment salary suspension and removal of the

Chief Native Commissioners shall be governed by Section 79 (2) of the Southern Rhodesia Order in Council 1898.

12. The Administrator in Council may appoint so many officers to be styled Superintendents of Natives as may from time to time seem expedient. The Superintendents shall discharge such duties as may from time to time be determined and defined by the Administrator in Council and shall have all the powers and jurisdiction conferred upon Native Commissioners within all the native districts under their supervision. The appointment salary suspension and removal of the Superintendents of Natives shall be governed by Section 79 (2) of the Southern Rhodesia Order in Council 1898.

13. For each district constituted by the Administrator in Council as aforesaid there shall be appointed an officer styled the Native Commissioner who may be the Magistrate or Assistant Magistrate in districts where such officers are stationed. Every such officer shall exercise within his district such powers as may from time to time be conferred upon him by law; provided that the Administrator in Council may where such a course appears to be desirable and subject to the approval of the High Commissioner place two or more districts under one Native Commissioner and may subject to the like approval appoint one or more officers to assist the Native Commissioner in the discharge of his civil functions except those referred to in the next succeeding section.

14. A Native Commissioner shall have

- (a) in civil proceedings in which natives only are concerned, and
- (b) in criminal proceedings in which the accused is a native

such jurisdiction as is exercisable by a Magistrate under this Proclamation and any other law for the time being in force: provided that no Native Commissioner shall have jurisdiction to try any case in which the offence charged is disobedience to his own orders or in which he himself is the official towards whom a chief or other native has been guilty of insolent or contemptuous behaviour, but such offences shall be tried by a Superintendent of Natives or Magistrate having jurisdiction.

There shall be the same right of appeal from the decision of a Native Commissioner in any case civil or criminal as there would be if the case had been heard before a Magistrate.

The provisions of section fifty of the Southern Rhodesia Order in Council 1898 shall apply to courts of Native Commissioners in the same way as if such courts were mentioned in the said section.

Every Court of a Native Commissioner and of an Assistant Native Commissioner shall be a Court of Record.

15. (1) When and as often as any Native Commissioner shall sentence any native upon conviction to pay a fine of Five pounds or more or to be imprisoned for the period of one month or longer or to receive any number of

such Native Commissioner shall forward the proceedings to the Registrar of the High Court for review by a Judge of the High Court and the laws and rules governing the reviewing of proceedings of a Magistrate's Court shall apply mutatis mutandis to any such review.

(2) Notwithstanding anything in this section contained it shall not be necessary to forward for review the proceedings in any case tried before the court of a Native Commissioner to which if the case had been tried before a Magistrate's Court the provisions of the Juvenile Offenders Amendment Ordinance 1909 would have applied.

16. For the purpose of trying civil suits or of exercising criminal jurisdiction as provided in section fourteen a Native Commissioner may hold a court in such place or places within his district as may appear to him from time to time most suitable; provided always that all parties to any civil dispute shall have due and proper notice of the place where any particular case is to be tried and any accused person shall be given full opportunity of calling such witnesses as he may desire to have heard on his behalf.

17. It shall be lawful for the Administrator in Council from time to time to make alter and revoke rules regulating the proceedings in civil and criminal cases in the courts of Native Commissioners and by such rules to prescribe the fees and charges payable in



respect of civil proceedings. Until any rules be made regulating criminal proceedings, the rules of the Magistrates Courts regarding such proceedings shall, mutatis mutandis, apply.

18. (1) No native shall remove from one district to another without the consent of the Native Commissioners of the districts concerned.
- (2) Subject to the approval of the Administrator in Council a Native Commissioner may assign lands for huts, gardens and grazing grounds for each tribe on vacant land or reserves in his district and prohibit the erection of new huts or the cultivation of new gardens where such erection or cultivation may for good reasons appear to him undesirable.
- (3) Any native removing from one district to another without the above-mentioned consent or wilfully disregarding any order given under sub-section (2) of this section shall be guilty of an offence and liable to the penalties prescribed by section fifty of this Proclamation.
- (4) Nothing in this section contained shall affect the provisions of section eighty-two of the Southern Rhodesia Order-in-Council, 1898, and it shall be the duty of a Native Commissioner to report to the Administrator all cases in which any action has been taken under the provisions of this section.

19. A Native Commissioner shall from time to time be subject to the approval of the Chief Native Commissioner fix the number of huts which shall compose his district.

20. A Native Commissioner shall when circumstances require it arrange and determine as far as possible between natives all matters arising out of the flow and apportionment of the water of streams and furrows in his district.

21. A Native Commissioner shall be responsible for the proper registration of huts within his district and for the collection of native tax when due.

22. The receiving of presents from natives or the acquisition of stock or land by any Native Commissioner or other officer of the Native Department is strictly prohibited without the consent of the Secretary for Native Affairs first had and obtained.

#### PART IV. DUTIES AND DISCIPLINE OF NATIVE

##### MESSENGERS.

23. A sufficient number of native messengers shall be attached to the office of each Native Commissioner.

24. The duties of the messengers shall be to convey messages to the chiefs and district headmen from the Native Commissioners to warn natives of collection of native tax to summon parties to civil cases in Native Commissioners' Courts and to report

to the Native Commissioner any irregularities or crimes that may come to their knowledge.

25. Native Chiefs and headmen shall report to the Native Commissioner or nearest Police Station any irregularities misconduct or impositions on the part of the messengers at Kwaile.

26. The messengers shall wear a distinctive uniform.

27. It shall be lawful for the Administrator in Council from time to time subject to the approval of the High Commissioner to impose on native messengers such further and other duties as may appear desirable.

28. Any native messenger who shall

- (1) take any bribe or without the consent of the Native Commissioner any present from any person; or
- (2) give out and pretend that he has power and authority to settle any dispute or undertake the settlement of any dispute; or
- (3) neglect to report to the Native Commissioner the commission of any crime or the commission of which he may have knowledge either through himself or from information supplied by others; or
- (4) be under the influence of intoxicating liquor while in camp or on duty; or
- (5) act beyond instructions given to and received by him or unnecessarily delay the fulfilment and execution of any duty entrusted to him; or
- (6) neglect to perform and carry out any duty or instructions entrusted or given to him; or

(7) wilfully fail to assist any native in approaching any Native Commissioner for the purpose of laying any complaint before him or for any other legitimate object or obstruct and hinder any

native from so approaching any Native Commissioner shall be deemed to have contravened this section and upon due conviction thereof shall be liable to punishment in a fine not exceeding five pounds or to imprisonment for any period not exceeding three months with or without hard labour or to both such fine and imprisonment.

29. Any native messenger who shall

(1) demand or take against the will of the owner thereof or without his consent any animal bird beast food drink clothing or other article or thing whatsoever; or

(2) usually or improperly interfere with any woman or girl or demand that any woman or girl should be given or supplied to him for the purpose of irregular and temporary cohabitation; or

(3) cause or direct the commission of any act of a cruel indecent or disgraceful character and nature; or

(4) commit any act or spread and disseminate any false reports or rumours calculated to cause unrest among the native inhabitants of the territory or to jeopardise or disturb the peace of the country; or

(5) assault threaten intimidate or be insolent to any chief or headman; or

(6) abuse or misuse his authority and position as a native messenger to his own advantage

- shall -

shall be deemed to have contravened this section and shall upon conviction thereof be liable to punishment in a fine not exceeding Ten pounds or to imprisonment for any period not exceeding six months with or without hard labour or to receive any number of lashes not exceeding fifteen or to any two of such punishments.

PART V. CHIEFS.

30. The chief in charge of a tribe shall be appointed by the Administrator in Council and shall hold office during pleasure and contingent upon good behaviour and general fitness. He shall rank as a Constable within his tribal area and shall receive such pay and allowances as may be fixed from time to time.

31. A chief shall be responsible within his tribal area for

- (1) the general good conduct of the natives under his charge;
- (2) the immediate notification to the Native Commissioner of all crimes or offences or serious attempts at crimes of all deaths and suspicious disappearances of any epidemic or prevailing diseases either among the members of his tribe or their stock;
- (3) the due publication of all such public orders directions or notices as may be notified to him;
- (4) the nomination of a sufficient number of men to act as District headmen for sections of his



tribe for appointment by the Secretary for Native Affairs who shall also have the power to remove them and to appoint others in their stead:

(5) cognition and control of natives not being people of his own tribe who may come into his tribal area and stock other than stock known to be the property of his own tribe:

(6) the notification to the Native Commissioner of all applications by newcomers to build and reside in his tribal area:

(7) the prompt supply of men called for under the terms of section six of Part II of this Proclamation as and when ordered to supply the same by the Administrator in Council with the approval of the High Commissioner through the Native Commissioner:

(8) the discharge of such further and other duties as may from time to time be prescribed by the Administrator in Council subject to the approval of the High Commissioner.

32. Every chief failing or neglecting without reasonable excuse to carry out any of the requirements of section thirty-one, sub-sections (2) (3) (6) (7) or (8) shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section fifty of this Proclamation.

33. Chiefs in their respective tribal areas shall aid and assist by all means in their power in apprehending and securing offenders of all descriptions.

34. Chiefs shall in all cases communicate with the Native Commissioner stationed in the district in which they reside.

35. Chiefs shall assist in collecting taxes when they become due.

PART VI. HEADMEN

36. The Administrator shall appoint a sufficient number of headmen in each tribal area to assist the chiefs in carrying out their duties. In making these appointments the nominations submitted by the chiefs shall except for good reasons to the contrary be accepted.

37. Headmen shall be responsible to the chiefs for

- (1) the good conduct of the natives in the sectional area placed in their charge;
- (2) the prompt notification to the chief of any criminal occurrence in their sectional area.

38. Headmen shall rank as constables within their sectional areas and are authorized and required to arrest any native therein in obedience to any lawful warrant or whom they may see committing or attempting to commit any crime or offence against any person or property or rioting or defying authority and to hand over the persons arrested without delay to the Native Commissioner.

39. Headmen shall be required to assist the messengers and other officials attached to the office of the Native Commissioner whenever called upon to do so.

40. Headmen shall prevent the settlement of fresh kraals in or the removal of existing kraals from their sectional areas without proper authority.

41. Every headman failing or neglecting without reasonable cause to carry out any of the requirements of section thirty-seven sub-section (2) and of sections thirty-eight thirty-nine and forty shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section fifty of this Proclamation.

PART VII. HEADS OF KRAALS.

42. Every head of a kraal failing or neglecting without reasonable cause immediately to acquaint his headman or chief or the Native Commissioner of his district of all crimes and offences deaths and suspicious disappearances outbreaks of disease amongst human beings or animals occurring at his kraal or in the neighbourhood thereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section fifty of this Proclamation.

43. Every head of a kraal failing or neglecting without reasonable cause to notify his headman or chief or the Native Commissioner of his district of the finding of lost stock or to report the presence at his kraal of strangers shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section fifty of this Proclamation.

Part VIII.

PART VIII. GENERAL

44. All natives shall carry out the lawful orders of their headmen and chiefs and of Native Commissioners and when required to do so act as messengers in the promulgating of public orders and Government regulations and in the notification of deaths and diseases and shall actively co-operate in any measures taken for the destruction of locusts prevention of grass fires repression of cattle diseases and in similar matters of public urgency.

45. Every Chief Headman Head of a Kraal and native shall promptly comply with any order of the Chief Native Commissioner Superintendent of Natives or Native Commissioner issued in conformity with and in pursuance of these Regulations and every native shall likewise comply with any order of his chief issued in compliance with and in pursuance of these Regulations.

46. In addition to the duties prescribed in the above section all natives shall promptly obey and comply with any other reasonable order request or direction of a Native Commissioner.

47. Every Chief Headman Head of a Kraal or other native failing or neglecting without reasonable excuse to carry out any of the duties enumerated in sections forty-four forty-five and forty-six hereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties prescribed under section fifty of this Proclamation.

48. Should any Chief be guilty of insolence or contemptuous behaviour towards any Government official he shall be deemed guilty of an offence and shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months and shall further be liable in addition to any such fine or imprisonment to be deprived of his office as Chief.

49. Should any native other than a Chief be guilty of insolence or contemptuous behaviour towards a Government official or a Chief or should he be twice convicted of an offence under this Proclamation he shall be liable upon conviction to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months.

50. Any native guilty of any offence under any of the provisions of this Proclamation in respect of which no special penalty is provided shall upon conviction be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour for a period not exceeding three months.

51. Native Commissioners shall immediately on the conviction of any Chief or Headman under this Proclamation submit a full report of all the proceedings to the Administrator who shall have the power to confirm or quash the conviction or to reduce the penalty inflicted.

52. Magistrates' Courts shall have full jurisdiction to hear and decide all civil cases in which natives only are concerned.



53. Any Native Commissioner before deciding any native civil suit may state a case in writing for the opinion of the High Court of the territory. The Native Commissioner shall decide the matter in accordance with the opinion of the High Court.

54. This Proclamation may be cited for all purposes as "The Southern Rhodesia Native Regulations Proclamation 1910" and shall have force and effect in the Territory from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Pretoria*  
this *third* day of *October* One thousand nine  
hundred and Ten.



*W. H. M. M. M.*

High Commissioner.

By Command of His Excellency  
The High Commissioner.

*C. H. Rodwell*

Imperial Secretary.

No. 56 of 1910.]

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the High Commissioner's Proclamation No. 22 of 1910 so as to provide for the issue by Assistant Commissioners of permits to import cattle into the territory of Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows.

1. Section *one* of the High Commissioner's Proclamation No. 22 of 1910 shall be and is hereby amended by inserting after the words "Resident Commissioner" the words "or of an Assistant Commissioner or other officer acting as such to whom the Resident Commissioner may delegate the power of issuing such permission".

2. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Third day of October One thousand Nine hundred and Ten.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary

(Printed by the Government Printer, Pretoria.)

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the registration of Deeds and Land Titles in the territory included within the limits of the Barotsiland-North-Western Rhodesia Order-in-Council 1899, hereinafter referred to as "the Territory":

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. This Proclamation may be cited for all purposes as "The North-Western Rhodesia Lands and Deeds Registry Proclamation 1910" and shall have force and take effect as from the first day of April 1911.

2. Any laws now in force in the Territory so far as they are in conflict with the provisions of this Proclamation are hereby repealed.

3. In this Proclamation unless the context otherwise requires "Court" shall mean the Court of the Administrator or the High Court: "land" shall mean land in the Territory of Barotsiland-North-Western Rhodesia: "Probate" shall include letters of Administration with the Will annexed and a certified Office copy thereof: "Registrar" shall include a Deputy or Assistant Registrar: "Will" shall include codicil.

4. There shall be an office styled the Registry of Deeds hereinafter termed "the Registry" in Livingstone for the registration of Deeds of Transfer or Conveyance of Land and of Deeds mortgaging or charging Land for the payment of money or fulfilment of contractual obligations and of other Deeds and Instruments required or permitted by this or any other Proclamation or by any law to be registered.

5. To such Registry there shall be assigned an officer styled the Registrar by whom the Deeds and Instruments mentioned in the last preceding section shall be registered.

6. (a) The Administrator may assign to the Registrar duties other than those connected with the Registry until the said last mentioned duties shall require that the whole time of the Registrar shall be devoted to them.

(b) When and as often as occasion shall require in the case of sickness, absence or other disability of the Registrar or Assistant Registrar the Administrator may appoint some other fit and proper person to discharge temporarily all the duties and functions of such Registrar or Assistant Registrar.

7. No agreement purporting to grant convey or transfer land or any interest in land or to be a lease of land for a longer term than one year or to create any charge upon any land whether by way of mortgage or otherwise shall be of any force or effect against other than

the parties thereto unless it be in writing and unless the document containing the same shall have been registered in the Registry within the time hereinafter specified.

8. All such documents as aforesaid shall be registered:-

(1) if executed before the first day of April 1911 before the first day of January 1912;

(2) if executed on or after the first day of April 1911 then:-

(a) in the case of an Instrument executed at the place where it is registered within ten days from its date;

(b) in the case of an Instrument executed elsewhere in the Territory within the period of sixty days from its date;

(c) in the case of an Instrument executed out of the Territory within the period of one year from its date;

(d) Probate of a Will affecting land may be registered at any time.

(3) The Court shall have power to authorise the registration of such documents after the expiration of the periods abovementioned on such terms as to costs and otherwise as it shall think fit provided it is satisfied that the rights of third parties acquired in good faith will not thereby be affected.

9. All grants conveyances or transfers of land or any interest therein or leases of land for a longer period than one year all charges upon land whether by way of mortgage or

- otherwise -



otherwise shall if registered within the times specified in section eight have priority according to the date of registration. Before the expiration of such times they shall have priority according to the date of execution. Notice of a prior unregistered grant conveyance transfer lease mortgage or charge shall be disregarded in the absence of actual fraud.

10. Separate Registers shall be kept for:-

- (1) Lands;
- (2) Township Lands.

11. Duplicates of all transfers shall be deposited in the Registry.

12. (1) Upon the death of a registered owner the Registrar shall decide who is to be registered as owner.

(2) Where any person alleges that any error or omission has been made in the Register or that any entry or omission therein has been made or procured by fraud or mistake the Registrar shall if he shall consider such allegation satisfactorily proved correct such error omission or entry as aforesaid.

(3) Any person aggrieved by any entry or omission made in the Register after application to the Registrar under the last preceding sub-section may apply to the Court for an order that the Register may be rectified and the Court may either refuse such application with or without costs to be paid by the applicant or it may if satisfied of the justice of the case make an order for

the rectification of the Register in such manner as it shall direct.

13. The holder of a mortgage or charge shall be entitled on demand to receive a certificate of charge.

14. Every document presented for registration must contain a description of the land to which it refers sufficient for its proper identification; and the Registrar shall refuse to accept for registration any document which does not contain such a description.

15. Where a map or plan is annexed or comprised in any document a true copy of such map or plan must accompany the document when brought for registration and such copy shall be filed together with the document to which it refers in the "Register Document File".

16. Every document must be presented for registration either by a person executing or claiming an interest under the same, or the representative or agent of such person and the Registrar may be required to be satisfied as to the identity of the person by whom it is brought or in the case of a representative or agent as to his authority which authority may be proved by Power of Attorney Probate or other evidence appearing to the Registrar to be sufficient.

17. Before registering a document under this Proclamation the Registrar shall satisfy himself that it is an instrument to which this Proclamation applies and that all transfer duty succession duty or quit rent or other annual payment thereon has been duly paid.

18. Registration shall consist in the filing of a copy of the document brought for registration in the Register Document File" such copy to be duly certified by the Registrar as a true copy and in the entry in a book to be called "The Land Register" of the following items: the name of the parties the date of the document the date of the registration and briefly the nature of the document.

19. The Registrar shall number every copy so filed consecutively entering the day of the month and the year when it is registered and shall file the copies in the order in which the documents came into his hands.

20. A memorandum signed by the Registrar shall be endorsed on every document registered containing a sufficient reference to the number and position of the document in the Register which memorandum shall be proof of the due registration of the document in the absence of sufficient evidence to the contrary.

21. If it shall appear to the Registrar that the value of the property has been understated for the purpose of evading the proper transfer duty succession duty or other duty chargeable ad valorem it shall be competent for the Registrar to refuse to register the document in question until he shall have been satisfied that the proper value is stated and that the proper duty has been paid and for that purpose to take such evidence or to make such inquiry or to cause such valuation to be made as he shall think proper and to make such Order as to the costs of such proceedings as shall be just subject to appeal to the Court.

22. If any document to be registered is not in the English language it must be accompanied by a translation duly certified by some competent and authorized person.

23. Subject to such rules as the Administrator may make from time to time the Register may during the usual office hours be searched and examined by anyone and certified copies of any entry may be obtained if required.

24. In the event of the loss or destruction of any Deed registered under this Proclamation a copy certified to be a true copy under the hand of the Registrar shall be admissible in evidence of its contents in all Courts of Justice in the Territory subject to all just exceptions as to its validity or upon other grounds.

25. Every certified copy or extract of any registered Deed purporting to be signed by the Registrar shall be receivable in evidence in any civil case without further or other proof thereof unless it is proved to be a forgery. The party proposing to use it in evidence shall deliver a copy of such certified copy or extract to the opposite party and such copy or extract shall be received in evidence if the Court is of opinion that the copy thereof was delivered in sufficient time before the hearing to enable the opposite party to inspect the original Register from which the copy or extract has been taken.

26. A separate Register shall be kept in which are to be registered any Deeds or other documents other than



relating to land required by any law to be registered in respect of which no special Registry Office is indicated and in which any Deeds Agreements Wills or other documents which it is desirable and proper to register may be registered.

27. On and after the first day of April 1911 all Bills of Sale of personal property where the grantor remains in apparent possession of such property shall be null and void unless registered and stamped at the office of the Registrar within three months from the execution of the same.

28. The Administrator may from time to time make alter and cancel Rules for the conduct of registration under this Proclamation.

29. In respect of the registration of Documents under this Proclamation the fees stated in the Schedule hereto shall be payable.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at

this 26<sup>th</sup> day of October

one thousand nine hundred and ten.

High Commissioner.

By Command of His Excellency  
the High Commissioner.

Imperial Secretary.



SCHEDULE OF FEES.

DEEDS REGISTRY OFFICE.-

For the preparation of any deed or transfer or mortgage prepared in the Deeds Office - - - - -	l. s. d. 3. 3. 0
For the registration of any deed of grant transfer mortgage or probate - - -	1. 0. 0
For the registration of any contract or settlement purporting to charge or mortgage land - - - - -	1. 0. 0
For each application to search index of the Register of transfers and mortgages for each letter searched - - -	0. 2. 0
For an inspection under each name in the Land and Mortgage Register or of any deed of transfer mortgage or other deed filed in the Deeds Office- -	0. 2. 0
For certifying a copy of not exceeding one hundred words - - - - -	0. 10. 0
For every additional one hundred words or fraction thereof - - - - -	0. 1. 0
For making a copy of not exceeding one hundred words - - - - -	0. 1. 6
For any additional one hundred words or fraction thereof - - - - -	0. 1. 0
For uniting documents with official seal- If the document is in any other language than English double the copying fees are chargeable.	0. 2. 6
For every registration entry cancellation - certificate -	

certificate or other act done in the  
Deeds Office not being any of the  
matters or things aforesaid - -

£. s. d.

0. 5. 0

# MORTGAGE, INCLUDING BILLS OF SALE.-

Mortgages and charges including bills of  
sale on registration in the Registry.-

Amount secured not exceeding	£10	0.	2.	0
Exceeding £10 and not exceeding	£20	0.	3.	0
" £20 "	£30	0.	5.	0
" £30 "	£50	0.	7.	0
" £50 "	£100	0.	10.	0
" £100 "	£150	0.	15.	0
" £150 "	£200	1.	7.	0
" £200 "	£300	1.	5.	0
" £300 "	£400	1.	10.	0
" £400 "	£500	2.	0.	0
" £500 "	£600	2.	10.	0
" £600 "	£700	3.	0.	0
" £700 "	£800	3.	10.	0
" £800 "	£900	4.	0.	0
" £900 "	£1000	4.	10.	0

And every additional £100 or fraction  
of £100 - - - - -

0. 5. 0

## TRANSFER OF MORTGAGE.

- (a) When the bond is intact: one-fourth  
of the original duty on mortgage  
registered in the Registry.
- (b) When a portion of a bond has been paid  
and transfer is made of the balance:

2. 0. 0.

one-fourth of the original duty charge-  
able on unpaid balance.

TRANSFER.-

Transfers on registration in the  
Registry.-

Upon the amount of the price or purchase  
money paid or to be paid for real

property per centum - - - - 4. 0. 0

Upon the value of real property on any  
change of ownership by inheritance  
bequest devise exchange donation

or otherwise per centum - - - - 4. 0. 0

Exemption.-

Stamps which if paid would be paid  
directly out of public revenue.

No. 3. of 1910.

SANCTIONED

50  
50743

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient to provide for the appointment of a Deputy Resident Commissioner in Swaziland and for that purpose to amend the Swaziland Administration Proclamation 1907 (hereinafter referred to as "the principal law"):

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The High Commissioner may from time to time appoint a Deputy Resident Commissioner for Swaziland who shall have and exercise all the powers authorities and jurisdiction of the Resident Commissioner provided that the Deputy Resident Commissioner shall be subordinate to the Resident Commissioner and shall act for the Resident Commissioner only when required by him or by the High Commissioner so to act and provided further that the Deputy Resident Commissioner may if so required act whether the

- Resident -

Resident Commissioner be present in the territory of Swaziland or not and may act in the disposal of any cases civil or criminal while the Resident Commissioner is acting in other cases.

2. Section fourteen of the principal law as amended by section three of Proclamation No.69 of 1908 and sections two and three of Proclamation No.3 of 1910 shall be and is hereby further amended as follows:-

- (a) by inserting after the words "by and before the Resident Commissioner" the words "or Deputy Resident Commissioner";
- (b) by inserting after the words "Resident Commissioner" in sub-section (a) of the said section the words "or Deputy Resident Commissioner";
- (c) by adding at the end of the said sub-section (a) of the said section the words "or of the Resident Commissioner the Deputy Resident Commissioner and one Assistant Commissioner".

3. Section twenty-seven of the principal law shall be and is hereby amended by inserting after the words "the Resident Commissioner" the words "the Deputy Resident Commissioner".

4. This Proclamation shall be read as one with the principal law and shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G .

- GIVEN -



G I V E N under my Hand and Seal at

this *twenty-sixth* day of *Nov. 1910*

one thousand nine hundred and ten.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient further to amend the High Commissioner's Proclamation No. 13 of 1908 (hereinafter referred to as "the said Proclamation") so as to provide for the receipt of pensions by the holders of certain offices in the Government of Basutoland not included in Schedule A to the said Proclamation and to alter the description of certain offices contained in such schedule;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. Schedule A to the said Proclamation shall be and is hereby amended as follows:

- (a) By the insertion therein immediately after the words "Assistant Commissioners" of the words "Government Auditor (in so far as his salary or emoluments are drawn from the funds of the Basutoland Government)" and immediately thereafter of the words "Comptroller of Stores".
- (b) By the deletion therefrom of the words "Inspector of Public Works" and the substitution in lieu thereof of the words "Director of Public Works".
- (c) By the deletion therefrom of the words "Inspector of Education" and the substitution in lieu thereof of the words "Director of Education".
- (d) By the deletion therefrom of the words "Government Veterinary Officer" and the substitution in lieu thereof of the words "Principal Veterinary Surgeon".

2. This Proclamation shall be read as one with the said Proclamation as amended by the High Commissioner's Proclamation No. 60 of 1908 and the High Commissioner's Proclamation No. 4 of 1909 and the amendments hereby made shall be deemed to have been inserted in Schedule A to the said Proclamation at the date of the taking effect thereof and to have had effect from such date.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty eighth day of October One thousand Nine hundred and Ten.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 106 of 1910.

SANCTIONING

50251

Recd  
26 NOV 10

PROCLAMATION BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient further to amend the High Commissioner's Proclamation No.26 of 1906 (hereinafter referred to as "the said Proclamation") so as to make a further addition to the pensionable offices named in the Schedule to the said Proclamation:-

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

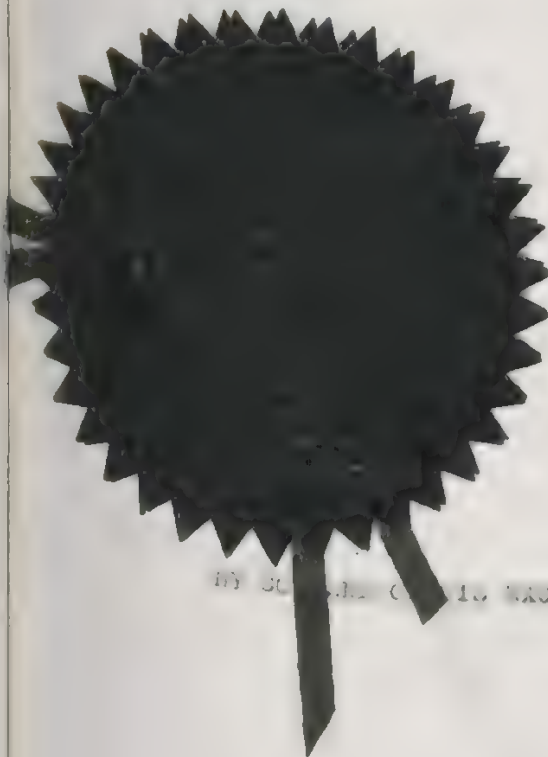
1. The Schedule to the said Proclamation shall be and is hereby amended by the insertion therein immediately after the words "Sub-Inspectors of the Bechuanaland Protectorate Police" of the words "Local Government Auditor (in so far as his salary or emoluments are drawn from the funds of the Government of the Bechuanaland Protectorate)".

2. This Proclamation shall be read as one with the said Proclamation as amended by the High Commissioner's Proclamations Nos.51 of 1907, 6 of 1908, 61 of 1908 and 5 of 1909 and the amendment hereby made shall be deemed to have been inserted in the Schedule to the said Proclamation at the date of the taking effect thereof and

to have had effect from such date.

GOD SAVE THE KING

Given under my Hand and Seal at Cape Town this  
day of October One thousand Nine hundred and  
Ten,



*[Signature]*

HIGH COMMISSIONER.

BY SCOTT C. IS WASHINGTON THE FIRST OF JANUARY,

*[Signature]*

THE FIRST OF JANUARY.

SECRET

No. of 1910.

PROCLAMATION BY HIS HIGHNESS THE KING OF SWAZILAND.

Whereas it is expedient further to amend the High Commissioner's Proclamation No. 9 of 1908 (hereinafter referred to as "the said Proclamation") so as to make further addition to the pensionable offices named in the Schedule to the said Proclamation and also to correct an error in the High Commissioner's Proclamation No. 43 of 1910 which amended the said Proclamation;

I, the King, under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:

1. The Schedule to the said Proclamation shall be and is hereby amended by the insertion therein immediately after the words "Clerks to Assistant Commissioners" of the words "Government Auditor (in so far as his salary or emoluments are drawn from the funds of the Swaziland Government)" and the said words shall be deemed to have been inserted in the Schedule to the said Proclamation at the date of the taking effect thereof and to have had effect from such date.

2. Section three of Proclamation No. 43 of 1910



shall be and is hereby amended by the deletion therefrom of the words "Proclamation No.1 of 1909" and the substitution in lieu thereof of the words "Proclamation No.3 of 1909".


3. This Proclamation shall be read as one with the said Proclamation as amended by the High Commissioner's Proclamation No.59 of 1908 the High Commissioner's Proclamation No.3 of 1909 and the High Commissioner's Proclamation No.43 of 1910 and shall save as provided in section one hereof have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING

Given under my Hand and Seal at Cape Town this  
28<sup>th</sup> day of October one thousand Nine hundred and  
Ten,

  
HIGH COMMISSIONER.

BY APPOINT OF HIS EXCELLENCY THE HIGH COMMISSIONER,

  
DEPUTY SECRETARY.



## PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision out of the public revenue of Basutoland for the service of the year ending the thirtieth day of June 1911 ;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows :—

1. The public revenue of Basutoland is hereby charged towards the service of the year ending the thirtieth day of June 1911 with a sum of £112,686 (one hundred and twelve thousand six hundred and eighty-six pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the estimates of the expenditure of Basutoland for the year ending the thirtieth day of June 1911 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Basutoland Appropriation Proclamation 1910 and shall have force and take effect from the first day of July 1910.

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town this twenty-second day of November, One thousand Nine hundred and Ten.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

## SCHEDULE.

No.	Head of Service.	Amount.
1.	Establishments	£13,381
2.	Police	18,378
3.	Post Office	4,668
4.	Allowances to chiefs	6,000
5.	Medical expenses	650
6.	Office contingencies	1,000
7.	Revenue services	200
8.	Administration of Justice	2,828
9.	Public works	29,945
10.	Hospitals	10,348
11.	Education	12,676
12.	Rewards for special services	100
13.	Audit	350
14.	Miscellaneous	2,249
15.	Agriculture	7,454
16.	National Council	500
17.	Pensions	1,959
		£112,686

(Printed by the Government Printer, Pretoria.)

N. 63 of 1910.]

### PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to amend the Liquor Proclamation 1910 relating to the sale of intoxicating liquor in Basutoland (hereinafter referred to as the principal law) so as to provide for certain exemptions from the provisions of the principal law;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Notwithstanding anything contained in the principal law it shall be lawful

(a) (i) for any person having the written permission of the Resident Commissioner or of an Assistant Commissioner;

(ii) for any sheriff messenger or other official acting under the authority of any Court or of the Resident Commissioner or of an Assistant Commissioner;

(iii) for any officer of customs in the exercise or discharge of his duties;

to sell any spirituous or distilled perfume or perfumery or medicated or methylated spirits to white persons of European descent;

(b) for any white person of European descent to give any intoxicating liquor lawfully introduced or imported under the principal law to any other white person of European descent by way of hospitality, provided that no consideration in money goods or services be paid allowed rendered or agreed upon in respect of or in connection with such gift.

2. This Proclamation shall be read as one with the principal law and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Twenty-second day of December One thousand Nine hundred and Ten.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

W. G. BENTINCK,

for Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient that Part I, of Act No.27 of 1882 of the Cape of Good Hope Province of the Union of South Africa should be declared to be in operation at Palapye Road within the Bechuanaland Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. From and after the date on which this Proclamation shall take effect the provisions of Part I. of the Police Offences Act No.27 of 1882 of the Cape of Good Hope Province of the Union of South Africa shall be in operation within the following limits:-

A circle having a radius of one mile the centre of which is the centre of the railway platform at the Palapye Road Station in the Bechuanaland Protectorate.

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Johannesburg*  
*this twenty third day of December*  
one thousand nine hundred and ten.

  
*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*H. G. Buttrick*

*[Signature]*  
Imperial Secretary.



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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend The Large Game Preservation Proclamation 1904 ( hereinafter referred to as the said Proclamation) so as to alter the close season for the killing of large game in the Bechuanaland Protectorate;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section three of the said Proclamation shall be and is hereby amended by deleting therefrom the word "October" and substituting in lieu thereof the word "September".

2. Nothing in this Proclamation contained shall be deemed to alter or affect such power to vary the period of

the close season as is conferred on the High Commissioner  
by section one of Proclamation No. 14 of 1909.

3. This Proclamation shall be read as one with the  
said Proclamation and Proclamation No. 14 of 1909 and shall  
have force and take effect from the date of its publication  
in the Gazette.

G O D S A V E T H E K I N G .

GIVEN under my Hand and Seal at

this *twenty first* day of

*Johannesburg*  
*January*

one thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

8353

25 1911

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to confirm the Tati Concessions Limited in the full free and undisturbed possession as owners of all the land within the Bechuanaland Protectorate usually known and hereinafter referred to as the Tati District, subject to all the terms and conditions of this Proclamation and in accordance with the laws now or hereafter in force within the Bechuanaland Protectorate:

AND WHEREAS certified copies of certain plans annexed to an agreement dated the 2nd of November 1910 and made between the Tati Concessions Limited of the one part and the Rhodesia Railways Limited of the other part a copy of which agreement is set out in the third schedule hereto have been deposited at the office of the Resident Commissioner for the Bechuanaland Protectorate at Mafeking for identification and reference:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The Tati Concessions Limited its successors and assigns is hereby confirmed in the full free and undisturbed

- possession -

Possession as owners of all the land within the Tati District the limits of which district are as follows viz: from the place where the Shashi River rises to its junction with the Tati and Ramaquaban Rivers thence along the Ramaquaban River to where it rises and thence along the watershed of those rivers subject to all the terms and conditions of this Proclamation and in accordance with the laws now or hereafter in force within the Bechuanaland Protectorate.

(1) The lands within the said Tati District, which are described in the first schedule hereto annexed are hereby with the consent of the Company assigned as a reserve for the occupation of natives; such reserve shall be under the control of the Government; and within it the Company shall save as in this Proclamation expressly provided have no power or authority to deal or interfere with the occupation of land by the natives and the natives residing within the said reserve shall hold and occupy the land included therein subject to such rules and regulations as are named in the second schedule hereto or as may from time to time be proclaimed to be in force by the High Commissioner in accordance with the provisions of this Proclamation.

(2) The right of the Tati Concessions Limited to claim rent from natives within the native reserve shall cease and in lieu thereof the Government of the Bechuanaland Protectorate will pay the Tati Concessions Limited the annual sum of £1,000 (one thousand pounds) payment to be made on every first day of June.

(3) The Government of the Bechuanaland Protectorate will cause to be removed all natives within the Tati District to the Native Reserve but nothing herein

contained shall prevent the Tati Concessions Limited from arranging to let any portion of its land to individual natives nor shall anything herein contained require the removal of any natives in service or employment within the Tati District.

2. Nothing in this Proclamation contained shall add to or take away from any rights or obligations which have been conferred on or imposed on the Rhodesia Railways Limited by the Agreement of second of November 1910 between that Company and the Tati Concessions Limited a copy whereof is set out in the third schedule hereto and the plans annexed to which have been deposited as hereinbefore recited.

3. It shall be lawful for the High Commissioner at any time to select and set apart sites upon any land within the Tati District for the erection of public buildings and for the use of officials of the Government of the Bechuanaland Protectorate and to occupy the same free of charge and without the interference of any person or company; provided that in the case of land being selected for any of the above purposes whereon improvements have been made there shall be paid out of the revenue of the Bechuanaland Protectorate to the party interested the beneficial value of the said improvements.

4. The Tati Concessions Limited shall have full power and authority to dispose by sale lease or otherwise of any portion of the land within the Tati District not being land reserved as aforesaid for natives or for the Rhodesia Railways Limited or land selected as sites by the High Commissioner as hereinbefore set forth; and the purchaser or



lessee or occupier under any agreement with the Tati Concessions Limited shall have the right of full free and undisturbed possession subject to the terms of the said purchase lease or agreement and to the terms of this Proclamation.

5. All sales leases or agreements whereunder occupation of land has been given by the Tati Concessions Limited prior to the date of this Proclamation and still binding shall be recognised as valid and shall subject to the terms thereof and to the provisions of this Proclamation be regarded as conferring upon the purchaser lessee or occupier a right of full free and undisturbed possession in respect of the said land.

6. The right to all minerals and precious stones under the land in the Tati District is reserved to the Tati Concessions Limited and also the right of prospecting for and working the same but no mining operations shall be carried on under any land on which buildings have been erected or improvements made unless and until compensation has been paid for any loss to be sustained by the owner or owners of such buildings or improvements by reason of such operations and in the case of land reserved for the Rhodesia Railways limited no prospecting or mining operations shall be carried on in such manner as to interfere with the working and safety of the said line of railway or with any works constructed for the purposes of the said railway.

7. All officials of the Government of the Bechuanaland Protectorate including members of the Government Police shall have reasonable facilities for cutting timber required for ordinary public purposes upon any portion of land within

the Tati District free of charge and shall also have the like facilities for the grazing of stock or animals their property or in their possession for the purposes of their duties; provided that the said rights of grazing and cutting wood shall be exercised reasonably both in extent and manner and such rights shall not extend to land which has been or shall have been bona fide sold or leased by the Tati Concessions Limited and provided further that such rights shall not be exercised in such manner as to interfere with the planting of trees by the Company or with young trees but nothing in this section contained shall be held to interfere with reasonable rights of outspan by the Protectorate Police in any part of the Tati District.

8. Nothing contained in this Proclamation or in any other law shall authorise the said Company to make or administer laws within the Tati District or to levy any rate tax license duty or impost therein and all powers of legislation administration and taxation are reserved to and remain vested in His Majesty's High Commissioner but nothing shall interfere with the rights of the Company as owners to grant or refuse to grant permission to prospect or mine upon their lands or to impose such conditions upon the grant of any such rights as they may think fit.

9. Nothing contained in this Proclamation shall affect or interfere with any of the provisions of Her Majesty's Charter granted to the British South Africa Company but the said provisions shall in so far as they relate to or affect the Tati Concessions Limited or the Tati District be and remain operative.

10. This Proclamation shall take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G .

GIVEN under my Hand and Seal at Johannesburg

this *twenty first* day of January one  
thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

SCHEDULE 1.

The First Schedule hereinbefore referred to.

The following are the boundaries of the area herein referred to as the native reserve:-

A straight line drawn from Beacon No.12 (58) on the Rhodesian border due South to a point where such straight line strikes the Inchwe River thence along the Inchwe River to a point where the Inchwe River is intersected by a straight line drawn from Namaquabane Railway Siding to the south side of Pole's Kraal. Thence by a straight line from the Inchwe River to Pole's Kraal thence by a straight line to the south side of Masunga's Kraal and thence from Masunga's Kraal by a straight line crossing the Vukwe River to Dombashaka Mountain. Thence by a straight line from Dombashaka Mountain to Needle Rock and thence by a straight line from Needle Rock to the northern extremity of the Vukwe Mountains and then along the watershed of those mountains until the Vukwe River is reached one and a half miles below the Vukwe Drift. Thence from the before-named junction of the mountains with the Vukwe River along the Vukwe River to its junction with the Shashi River thence in a northerly direction following the boundary of the Tati District from the last-named junction along the Shashi River to its source which is marked by Beacon No.1. Thence in a south-easterly direction along the watershed which constitutes the northern or north-eastern boundary of the Tati District and which watershed has been scientifically surveyed and remains defined by beacons until Beacon No.12 (58) before named is reached.



SCHEDULE 2.

The Second Schedule hereinbefore referred to.

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The Tati Concessions will retain the mining rights (including precious stones) over the land set apart for a native reserve subject to the following conditions:-

(a) In the event of any land in the reserve being taken for mining purposes the natives shall have a sufficient supply of water reserved for their use.

(b) If it is found necessary to remove any native huts or gardens fair and equitable compensation shall be paid to the natives disturbed.

(c) The officers and licensees of the Company are to have all necessary rights of way and access for prospecting or mining purposes but such rights shall be exercised so as not to interfere unduly with the natives.

(d) Prospecting shall be carried on so as not to interfere unduly with native occupation and to be subject to suitable compensation where disturbance cannot be avoided.

(e) The Company shall have the right to make surveys and to erect beacons for mining purposes subject to the approval of the Resident Commissioner.

(f) The Company shall retain the right to take a reasonable amount of timber and other wood and grazing for mining purposes but not otherwise and the natives shall be prevented from destroying timber though permitted use of wood to a reasonable amount for firewood and for their huts.

(g) The right of access to the reserve accorded to the Company and its licensees by these regulations shall be subject to the control of the Resident Commissioner.

(h) The reserve will be for the occupation of natives only and they will not be permitted to alienate any of their rights to white men.

(i) Provisions will be made to prevent water pollution or firing of grass which may affect or damage properties adjoining the reserve.



SCHEDULE 3.

(The third Schedule hereinbefore referred to)

AGREEMENT under seal made the Second day of November  
(one thousand nine hundred and ten between THE TATI  
CONCESSIONS LIMITED (hereinafter called "the Tati Company"  
and which expression shall include the successors and  
assigns of the Tati Concessions Limited where the context  
permits) of the one part and THE RHODESIA RAILWAYS  
LIMITED (hereinafter called "the railway company" and  
which expression shall include the successors and assigns  
of the Rhodesia Railways Limited where the context permits)  
of the other part.

WHEREAS the railway company has constructed a  
railway through the Tati concessions which is of the  
length of seventy and one half miles or thereabouts  
AND WHEREAS as the result of negotiations extending over  
some years the Tati company and the railway company have  
agreed to enter into this present Agreement FOR THIS  
AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AS FOLLOWS:-

1. The Tati Company will convey to the railway  
Company within twelve months from the date of this  
Agreement subject to any existing rights of way and water  
the strip of land of a varying width which with its  
dimensions is shown on the plan marked "A" hereto annexed  
and is thereon distinguished by the colour blue and  
extends along the line of the railway for a mile each  
way from a point opposite the centre of the Main Avenue

- nt -

at Francistown in the Tati Concessions and also extends to and includes the site of the engine shed which is shown on the Plan "A" but has now been removed.

2. Beyond the northern extremity of the said strip of land and beyond the southern extremity of the said strip of land in each case to the boundary of the Tati Concessions the Tati Company will convey to the Railway Company within twelve months from the date of this Agreement subject to all existing rights of way a strip of land along the line of the railway of the uniform width of one hundred yards the centre line of which shall be the centre line between the present single line of rails. The Railway Company shall give notice to the Tati Company of its intention to fence any portion of the railway and shall from time to time provide a reasonable number of gates and crossing places over both the enclosed and unenclosed parts of the railway.

3. The Tati Company will convey to the railway company within twelve months from the date of this Agreement for railway purposes only the piece or pieces of land at Francistown containing together forty-six acres and shown with the dimensions thereof on the Plan "A" and thereon distinguished by the colour red subject to the public cart or waggon road generally known as the Lonarch Road and to all other existing rights of way and water.

4. The Railway Company shall be entitled (within five years from the date of this Agreement) to make such deviations in the line of railway as it may desire (in order to improve the same) except within one mile each way from the central point mentioned in Clause 1 hereof and may take land which shall not have been improved let or sold required for such deviation free of compensation provided however that after the completion of such deviation the strip of land referred to in Clause 2 hereof shall be a strip of a uniform width of one hundred yards the centre line of which shall be the centre line between the improved single line of rails. Provided always that the site of that portion of the railway for which any deviation shall be substituted with the land adjoining thereto shall revert to and be vested in the Tati Company and the cost of re-transfer of any such land rendered necessary by such deviations shall be borne by the railway company. On any such improved strip the Tati Company may reserve timber equal in quantity to the timber that may have already been cut on the relinquished strip.

5. The Railway Company has for some years past pumped water from the River Tati at or near a pumping station marked "A" on the plan A and conducted such water to its railway and works through the line of pipe in the direction shown on the said plan by the words "Rhodesia Railway Water Pipe". The Tati Company hereby confirms and will grant to the Railway Company the right to pump water but for railway purposes only from the said

- river -

river at or near the said pumping station and to conduct water therefrom to its railway and works through the said line of pipes and will convey to the Railway Company within twelve months from the date of this Agreement for railway purposes only a piece of land one hundred feet by one hundred feet for the purposes of the pumping station and shown on the plan hereto by the letter "A" and also will grant to the Railway Company the right to maintain repair and renew the said line of pipes and a right of way for the purposes of this clause along the said line of pipes from the said river to the strip of land mentioned in Clause 1 hereof but nevertheless in the exercise of their respective rights conferred by this and the following or previous clauses neither of the parties hereto shall in any way damage or interfere with any line of pipes which belongs or may belong to the other party. The Railway Company shall not tunnel or drive up stream from the said pumping station in the direction of the pumping house marked "B" on the plan "A".

6. The Tati Company will grant to the Railway Company the right at any time hereafter to search for and take water but for railway purposes only anywhere in the area between the said pumping station "A" and the Railway bridge on the Tati River below that station and to erect pumping stations in such area and to conduct water by a line of pipes from such stations to its railway and works and to maintain repair and renew any such line of pipes and also a right of way along any such line of pipes for the purposes of this clause. This right

- however -



however shall be granted subject to any other water rights that may be in existence at the time of the exercise thereof. Provided that nothing herein contained shall be prejudicial to the right of the Railway Company to search for water between these points on such land as may have been duly transferred to the Railway Company and if found to erect pumping stations and conduct water by a line of pipes to its line of railway.

7. The Tata Company will not at any time hereafter grant to any person persons or company any water or other right which shall permit of the sinking of a well within one hundred yards of any well previously sunk by the Railway Company under the right to be granted under the last preceding clause hereof.

8. The Tata Company confirm the arrangement made with the Railway Company in the year one thousand nine hundred and two under which a dam was built by the Railway Company across the River Inchve near the one thousand two hundred and sixty seven mile peg and an area of sixty-six acres was enclosed which area is shown on the Plan B hereto annexed and a line of pipe was laid from the dam to the Railway in the direction marked "pipe line" on the plan B and the water was conducted for railway purposes only along the said pipe line from the dam to the Railway and will grant for railway purposes only the said sixty-six acres of land and also the right to maintain repair and renew the said last mentioned line of pipes and a right of way along such line of pipes for the purposes of this clause.



9. All minerals in and under the land hereinbefore mentioned shall be reserved to the Tati Company with the right to work the same and the right to run under or over the railway all reasonable means of communication such as pipe lines and electric wires but these rights shall not be exercised until the Tati Company shall have given notice to the railway company of its intention to do so or so as to imperil in the opinion of the engineer for the time being of the railway company the safety and safe working of the railway or any of its buildings or works or any line of pipe and such engineer shall at all times have and be given by the Tati Company such facilities as he may reasonably require for inspecting any works in progress.

10. The railway company may sell let or otherwise deal with the land referred to in clause 2 hereof as it shall think fit but all other land hereby agreed to be granted shall be used for railway purposes only.

11. The railway company shall not sell any refreshments at Francistown except in ordinary course to passengers in its trains.

12. The railway company desiring in its own interest to develop the district of the Tati Concessions and thereby to increase its own traffic will consider and so far as possible meet the Tati Company in any suggestions or arrangements which it may desire to make in the future.

13. Until such time as there is on the railway a service of more than one passenger train a day in

each direction all passenger trains shall stop at Francistown and when there is such a service one passenger train each way and not less than half of all additional passenger trains each way shall stop at Francistown.

14. Any notice required to be given hereunder or under any deed or instrument executed pursuant hereto shall be a four weeks notice in writing to be served on the railway company at its principal office at Bulawayo and upon the Tati Company at its principal office at Francistown.

15. Each party hereto will at the request and cost of the other party execute and do all deeds instruments and things as shall be reasonably requisite or necessary to carry this agreement into effect.

IN WITNESS whereof the parties hereto have caused their Common Seals to be hereunto affixed the day and year first above written.

The Common Seal of the Tati  
Concessions Limited was  
hereunto affixed pursuant  
to a Resolution of the  
Board of Directors in  
the presence of

Seal.

Ernest C. Cochran }  
T.H. Thackthwaite } Directors

M. Howarth Secretary.

The Common Seal of the Rhodesia  
Railways Limited was hereunto  
affixed pursuant to a Resolu-  
tion of the Board of Directors  
in the presence of

Seal.

A. Maguire }  
Henry Birchenough } Directors.

R.J. Mackshaw; Secretary

# PROCLAMATION

By His Excellency The High Commissioner

WHEREAS it is expedient to amend in certain respects the laws relating to the taxation of natives in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Regulations *one to five* of the chapter of Proclamation No. 2 B. of 1884, entitled "Hut Tax, Pounds, Passes", and Proclamation No. 9 of 1903 shall be and are hereby repealed.

2. There shall be paid to the Resident Commissioner or to some person nominated by him by every adult male native domiciled in Basutoland for the purposes of the government of Basutoland a tax at the rate of one pound per annum for the year ending the thirtieth day of June 1911 and every succeeding year. If such native has more than one wife by native custom he shall pay a further tax of one pound for every additional wife provided always that no native shall be liable to pay more than three pounds in any one year in respect of himself and his wives by native custom.

3. It shall be lawful for an Assistant Commissioner to exempt from the payment of the tax or portion thereof in any year any native who shall be proved to his satisfaction to be incapacitated by extreme old age blindness personal infirmity or other causes from earning a livelihood.

4. (i) The tax for the twelve months ending on the thirtieth day of June in any year shall become due on the first day of July in the preceding year and shall be payable on that date or on such later date as may be fixed under section *nine* of this Proclamation in sterling coin provided that when the Resident Commissioner shall deem it advisable the tax may be paid in grain or stock in lieu thereof. The Resident Commissioner shall fix a value at which such grain or stock shall be received.

(ii) Any person duly authorized to collect the tax payable under this Proclamation may grant to any native liable to the same an extension of time beyond the date fixed under sub-section (i) of this section within which to pay such tax and shall thereupon deliver to such native a certificate of such extension and the tax shall be deemed to be due on a date mentioned in such certificate.

5. Any native who shall refuse or wilfully neglect to pay the aforesaid tax due by him within six months after the same has become due and payable shall be liable on conviction before any Assistant Commissioner to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months. The Assistant Commissioner shall in any case in which the accused person claims not to be liable for the whole or portion of the said tax determine the amount due if any and order payment thereof and such order may be executed in the same manner as if it were the judgment of a competent court in a civil proceeding.

6. (i) Any person duly authorized by the Resident Commissioner or by an Assistant Commissioner to collect the tax payable under this Proclamation may demand from any adult male native the production of

- (a) his tax receipt or any document serving the purpose of such receipt; or
- (b) a document granting him an extension of time for payment of the said tax; or
- (c) a document showing his exemption from liability to pay the said tax

and shall inspect the same if produced and return it to the person producing it.

(ii) If default is made by an adult male native in complying with the requirements of this section he shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

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25 FEB 1921

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

*Approved by the High Commissioner*  
*for the Southern Rhodesia*  
*Proclamation*  
*of the 25th February 1921*  
*for the purpose of making*  
*provision for the*  
*nomination and election of*  
*members of the several*  
*electoral districts of the*  
*territory of Southern*  
*Rhodesia by its legislative*  
*council of the said*  
*territory, now therefore*  
*under and by virtue of the*  
*powers and jurisdiction*  
*in me vested by the*  
*Southern Rhodesia Order-in-*  
*Council 1902 as amended*  
*by the Southern Rhodesia*  
*Order-in-Council 1903 I*  
*hereby*  
*proclaim and make known*  
*as follows:-*

Whereas it is necessary to make provision for the nomination and election of members of the several electoral districts of the territory of Southern Rhodesia by its legislative council of the said territory, now therefore under and by virtue of the powers and jurisdiction in me vested by the Southern Rhodesia Order-in-Council 1902 as amended by the Southern Rhodesia Order-in-Council 1903 I hereby proclaim and make known as follows:-

1. The Administrator of Southern Rhodesia may by notice in the Gazette make provision in accordance with the terms of the said Order-in-Council for the nomination of candidates for the several electoral districts and also for the election of the number of members prescribed for each of the said electoral districts in the event of there being more candidates than there are members to be elected and may by such notice aforesaid fix such days for the said nomination and election respectively as to the said Administrator shall seem fit.

2. The procedure provided by Proclamation No. 17 of 1908 shall as far as possible be followed with regard

to



to the said nomination and election respectively.

GOD SAVE THE KING.

Given under my hand and seal at Johannesburg this  
twentieth day of January one thousand nine hundred  
and eleven.



HIGH COMMISSIONER.

IN WITNESS WHEREOF I THE HIGH COMMISSIONER,

*[Handwritten signature]*

IMPERIAL SECRETARY.



## PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS the Acts of Parliament of the United Kingdom of Great Britain and Ireland known as the Foreign Tribunals (Evidence) Act 1856 (19 and 20 Vict. c. 113) and the Extradition Act 1870 (33 and 34 Vict. c. 52) are in force in the Territory of Basutoland as part of His Majesty's Dominions;

And whereas by an Order-in-Council dated the 2nd day of August 1910 it was (amongst other things) ordered that the Resident Commissioner of Basutoland as Judge of the Court of the Resident Commissioner in Basutoland should be a Judge having authority under the said Foreign Tribunals (Evidence) Act 1856;

And whereas it is expedient that Rules of Court for giving effect to the provisions of the said Foreign Tribunals (Evidence) Act 1856 and regulating the procedure under the same as well as under section *twenty-four* of the said Extradition Act 1870 should be framed and put in force;

Now therefore under and by virtue of the powers in me vested I do hereby proclaim declare and make known as follows:

1. The Rules of Court set forth in the Schedule to this Proclamation shall be applicable in all proceedings in the Court of the Resident Commissioner in Basutoland under the said Foreign Tribunals (Evidence) Act 1856 or under section *twenty-four* of the said Extradition Act 1870 provided always that the Resident Commissioner as Judge of the Court of the Resident Commissioner in Basutoland may from time to time with the approval of the High Commissioner alter add to or rescind any of such rules.

2. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Sixteenth day of January One thousand Nine hundred and Eleven.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

### SCHEDULE.

RULES OF COURT FOR OBTAINING EVIDENCE FOR FOREIGN TRIBUNALS (19 AND 20 VICT. C. 113; 33 AND 34 VICT. C. 52).

1. In these Rules "the Judge" shall mean the Resident Commissioner as Judge of the Court of the Resident Commissioner in Basutoland and "the Registrar" shall mean the Government Secretary as Registrar of the Court of the Resident Commissioner.

2. Where under the Foreign Tribunals Evidence Act, 1856, or the Extradition Act, 1870, section *twenty-four*, any civil or commercial matter or any criminal matter, is pending before a court or tribunal of a foreign country and it is made to appear to the Judge, by Commission Rogatoire, or Letter of Request, or other evidence as hereinafter provided, that such court or tribunal is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of the Court of the Resident Commissioner, the Judge may, on the *ex parte* application of any person shown to be duly

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by Notice of 3.6.11  
p. 136.11.

authorized to make the application on behalf of such Foreign Court or Tribunal, and on production of the Commission Rogatoire, or Letter of Request, or of a certificate signed in the manner, and certifying to the effect mentioned in section *two* of the Foreign Tribunals Evidence Act, 1856, or such other evidence as the Judge may require, make such order or orders as may be necessary to give effect to the intention of the Acts above mentioned in conformity with section *one* of the said Foreign Tribunals Evidence Act, 1856.

3. An order made under the last preceding rule shall be in Form numbered 1 in the Appendix to these rules with such variations as circumstances may require.

4. The examination may be ordered to be taken before any fit and proper person nominated by the person applying or before the Judge.

5. Unless otherwise provided in the order for examination, the examiner before whom the examination is taken shall, on its completion, forward the same to the Registrar, and on receipt thereof the Registrar shall append thereto a certificate in Form numbered 2 in the Appendix to these Rules, with such variations as circumstances may require, duly sealed with the seal of the Court of the Resident Commissioner for use out of the jurisdiction of such Court, and shall forward the depositions so certified, and the Commission Rogatoire or Letter of Request, if any, to the High Commissioner for transmission through His Majesty's Secretary of State for Foreign Affairs to the Foreign Court or Tribunal requiring the same.

6. An order made under Rule 2 may, if the Judge shall think fit, direct the said examination to be taken in such manner as may be requested by the Commission Rogatoire or Letter of Request from the Foreign Court, or therein signified to be in accordance with the practice or requirements of such Court or Tribunal, or which may, for the same reason, be requested by the applicant for such order. But in the absence of any such special directions being given in the order for examination the same shall be taken in the manner in which evidence is ordinarily taken on commission *de bene esse*.

7. Where a Commission Rogatoire, or Letter of Request, as mentioned in Rule 2, is transmitted to the Court of the Resident Commissioner by His Majesty's Secretary of State for Foreign Affairs through the High Commissioner, with an intimation that it is desirable that effect should be given to the same without requiring an application to be made to the Judge by the agents in Basutoland of any of the parties to the action or matter in the foreign country, the Registrar shall make such applications and take such steps as may be necessary to give effect to such Commission Rogatoire, or Letter of Request, in accordance with Rules 1 to 6 above.

#### APPENDIX.

##### FORM No. 1.

*Order under the Foreign Tribunals Evidence Act, 1856.*

In the Court of the Resident Commissioner in Basutoland.

In the matter of the Foreign Tribunals Evidence Act, 1856 (19 and 20 Vict. c. 113);

And in the matter of a (civil or commercial or criminal) proceeding now pending before (a)  
intituled as follows:—

Between \_\_\_\_\_ and \_\_\_\_\_  
plaintiff,  
and \_\_\_\_\_  
defendant.

Upon reading the affidavit (if any) of  
filed the \_\_\_\_\_ day of \_\_\_\_\_ 191 \_\_\_\_\_  
and the certificate of (b)  
that proceedings are pending in the (a)  
in (c) \_\_\_\_\_ and that such  
Court is desirous of obtaining the testimony of (d)

It is ordered that the said witness  
do attend before (e)  
who is hereby appointed examiner herein at (f)  
on the \_\_\_\_\_ day of \_\_\_\_\_

191 \_\_\_\_\_, at \_\_\_\_\_ o'clock, or such  
other day and time as the said examiner may appoint, and  
do there submit to be examined upon oath, or affirmation,  
touching the testimony so required as aforesaid, and do  
then and there produce (g) \_\_\_\_\_;

And it is further ordered that the said examiner do  
take down in writing the evidence of the said witness, or  
witnesses, according to the Rules and Practice of the Court  
of the Resident Commissioner pertaining to the examina-  
tion and cross-examination of witnesses (or as may be  
otherwise directed); and do cause each and every such  
witness to sign his or her deposition in his, the said  
examiner's presence; and do sign the depositions taken in  
pursuance of this order, and when so completed do transmit  
the same, together with this order, to the Registrar of the  
said Court for transmission to the President of the said  
Tribunal desiring the evidence of such witness or witnesses.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 191 \_\_\_\_\_

- (a) Description of foreign tribunal.
- (b) Name and description of the ambassador, minister, diplomatic  
agent, or consul of the foreign country.
- (c) Name of foreign country.
- (d) Names of witnesses.
- (e) Name and address of examiner.
- (f) Place appointed for examination.
- (g) Description of documents (if any) required to be produced.

#### FORM NO. 2.

#### *Certificate under the Foreign Tribunals Evidence Act, 1856.*

I, \_\_\_\_\_ Registrar of the Court  
of the Resident Commissioner in Basutoland, hereby  
certify that the documents annexed hereto are (1) the  
original order of the Court of the Resident Commissioner,  
dated the \_\_\_\_\_ day of \_\_\_\_\_ 191 \_\_\_\_\_,  
made in the matter of \_\_\_\_\_ pending  
in the \_\_\_\_\_ at \_\_\_\_\_  
in the \_\_\_\_\_ of \_\_\_\_\_  
directing the examination of certain witnesses to be taken  
before \_\_\_\_\_  
and (2) the examination and depositions taken by the  
said \_\_\_\_\_ pursuant to the said order,  
and duly signed and completed by him on the  
day of \_\_\_\_\_ 191 \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 191 \_\_\_\_\_

(Printed by the Government Printer, Pretoria.)

C O  
7124

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS Proclamation No.3 of 1906 made certain provisions for the due control and good government of communities within the Territory defined by the Barotsiland North-Western Rhodesia Order-in-Council 1898 (hereinafter referred to as "the Territory"):

AND WHEREAS it is desirable to extend those provisions and to apply them to the township of Livingstone in the Territory and to land immediately adjacent to such township:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Proclamation No.3 of 1906 shall be and is hereby repealed without prejudice to anything done by virtue of its provisions.

2. It shall be lawful for the Administrator from time to time to make alter and amend such rules as may be required for the good government of the portion of the Territory comprised within the following limits that is to say:-



(a) The township of Livingstone as defined by a certain survey dated October 1904 made by Rudolph Cloete Government Surveyor Cape Colony and deposited in the Lands and Mines Office of the Administration of the Territory.

(b) Such land immediately adjacent to the said township as the Administrator in manner hereinafter provided may specify;

which portion of the Territory is hereinafter described as "the area" and such rules shall come into operation on being promulgated as hereinafter provided and shall remain in force unless and until disallowed by the High Commissioner.

3. (a) It shall be lawful for the Administrator to define and alter in the manner hereinafter provided the boundaries of the above area.

(b) The Administrator may apply any of such rules to the whole or to any portion of the area.

4. For the purpose of defining or altering the area within which such rules shall be in force the Administrator shall have prepared a map delineating the boundaries of the area showing separately the township of Livingstone as defined by the above survey and the land immediately adjacent thereto and included in the area and shall cause the same to be affixed to the Government Office Magistrate's Court or Native Commissioner's Court within the area in a place visible to the public and also to such other buildings within or adjacent to such area as the Administrator may deem necessary for a period of one calendar month. On the expiration of such period the public shall be deemed to



have received due notice of the boundaries of the area referred to in such map.

5. In pursuance of the powers hereinbefore conferred upon him the Administrator may make alter and annul all such rules as may be required:-

- (a) For the preservation of health the prevention of disease and for sanitation including the fixing and levying of fees for sanitary services;
- (b) for the definition prevention and removal of nuisances;
- (c) for the preservation control and management of highways footways and lanes and of trees shrubs or other like growth thereon;
- (d) for the regulation of trading and hawking and for the control and suppression of noxious and dangerous trades;
- (e) for the regulation of the trade in and storage of explosives;
- (f) for the regulation of traffic wheeled or otherwise and whether for hire or otherwise;
- (g) for the control of animals of any kind;
- (h) for the preservation of public decency;
- (i) for the prevention of damage or trespass to property public and private;
- (j) for regulating the erection removal site and material of buildings;
- (k) for the inspection and when unfit for use for the destruction of food of all kinds;
- (l) for the control of natives residing or working within or frequenting the area;
- (m) for the impounding of animals straying within the

area their care while impounded for regulating the amount to be payable for their keep the conditions and contingencies under and upon which they may be sold and for the establishment of a pound and the enforcement of rules in connection therewith;

- (n) for the regulating of grazing and outspan privileges;
- (o) for the proper control and distribution of springs of water;
- (p) for the preservation of natural beauties and of timber and brushwood;
- (q) for requiring reasonable payment from those inhabitants of the area who may enjoy more largely than others any privilege or right therein;
- (r) for the levying of any rates for the supply of water and the improvement of roads provided that prior to any rate being levied it shall be approved by the majority of the inhabitants of the area when present at a public meeting called for the purpose;
- (s) generally for the good government and due control of the area.

6. All moneys received under the powers of such rules shall be administered by such member of the Board as hereinafter defined as the Administrator may appoint for the common benefit of the inhabitants of the area within which such moneys are received and payable.

7. (a) Any person contravening any rule made as aforesaid may on conviction be sentenced to imprisonment with or without hard labour for any term not exceeding three months or to pay a fine not exceeding fifteen

- pounds -

pounds sterling and in default of payment thereof to such term of imprisonment with or without hard labour and all fines levied shall be paid into the revenue of the Administration of the Territory.

(b) Any contravention of any rule made as aforesaid shall be tried by any Magistrate having jurisdiction in the area and it shall not form a matter of objection to the competence of such Magistrate to try such contravention that the Magistrate trying such a contravention is a member of the Board appointed as hereinafter provided for the purpose of carrying out any rules made as aforesaid.

4. 8. All rules made in accordance with the powers of this Proclamation as well as all alterations and amendments of such rules shall be published in the [REDACTED] [REDACTED] Gazette and shall thereupon have the force of law for all purposes mentioned therein and allowed thereby.

9. It shall be lawful for the Administrator to appoint two or more residents in the area to be a Board for the purpose of carrying out any rules made as aforesaid. The persons so appointed shall hold office for such period as the Administrator may think fit and upon any vacancy arising by death resignation or removal from office by the Administrator for any cause by him deemed sufficient the Administrator may appoint another person or persons to supply any vacancy.

10. It shall be lawful for the Administrator from time to time by notice in the Gazette to declare that the provisions of this proclamation shall apply to any other township or thickly populated area within the Territory

- which -

which he may specify in such notice and from and after the date of the publication of such notice in the [REDACTED] [REDACTED] Gazette the provisions of this Proclamation mutatis mutandis shall apply to such township or thickly populated area.

11. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G .

GIVEN under my Hand and Seal at Cape Town

this *thirtieth* day of *January*  
one thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.



WHEREAS it is expedient to make further and better provision for marriage in the Territory of Basutoland and to amend the existing law in respect to marriages in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

as follows:—

1. Section *two* of that part of Proclamation No. 24 of 1884 (dated the 29th of May, 1884) dealing with marriages and Proclamation No. 34 of 1907 shall be and are hereby repealed save as to marriages already solemnized before the date of the taking effect of this Proclamation (hereinafter referred to as "the date of this Proclamation") and any penalties that may now be or hereafter become recoverable in respect of such marriages. The Marriage Ordinance-Council of the 7th September 1878 is annulled as the Orders-in-Council of the 20th of February 1839 and the 3rd of April 1840 as in force in the Cape of Good Hope Province in the Union of South Africa Act No. 16 of 1860 Act No. 12 of 1856 and Act No. 9 of 1882 of the Province of the Cape of Good Hope shall not apply to marriages solemnized in Basutoland after the date of this Proclamation.

2. This Proclamation shall apply to all marriages solemnized in Basutoland after the date of this Proclamation save and except marriages contracted in accordance with native law or custom and nothing herein contained shall be taken as in any manner affecting or casting doubts upon the validity of any such last-mentioned marriages contracted before or after the date of this Proclamation.

3. No marriage shall be valid unless within a period of not more than three months previous to its solemnization banns have been published as provided in section *four* or a special licence has been obtained as provided in section *five*.

4. Banns may be published either

- (a) in public in the ordinary manner on three successive Sundays during divine service in a church or other building habitually used for public worship by a congregation to which one or both of the parties to the intended marriage belong and in a district in which one or both of such parties reside; or
- (b) by posting them up for a period covering three successive Sundays in a conspicuous place to which the public have access at the office of the Assistant Commissioner in the district in which one or both of the parties to the intended marriage reside.

5. Parties desiring to obtain a special licence shall appear before an Assistant Commissioner who on being satisfied it necessary by evidence under oath or by affidavit that there is no legal impediment to the marriage of such parties shall on payment of the sum of five pounds issue a special licence entitling such persons to be married without publication of banns. No Assistant Commissioner shall issue such licence, if it appear to him that the parties applying for the same are desirous of marrying in Basutoland to evade the law in force in any other Colony or Territory of South Africa.

6. No banns shall be published under section *four* of this Proclamation and no special licence shall be issued

order with her, his Poindrot or with respect to or  
any other thing, every such widow having minor  
children, fully authorized to give a certificate shall be  
deposited with the Master of Court of an Assistant  
Commissioner to be kept for the inheritance which have  
devolved upon her, and she shall be settled by payment  
**to the Master of Court** as directed by the customary and  
or otherwise, and the said Clerk or Clerk's deputy shall  
register it in the Books Poindrot or to the effect that the  
said certificate is was more or less hundred pounds  
provided always that the first six of this section shall  
not apply to the partition of an widow or widow having  
minor children, or to the said marriage with rights of  
inheritance are regulated according to native law or  
custom.



7. No marriage shall be valid unless solemnized by a marriage officer. The following shall be marriage officers:—

- (1) In every district the Assistant Commissioner or other officer duly appointed to act as Assistant Commissioner;
- (2) any minister of religion whom the High Commissioner has by notice in the *Gazette* appointed a marriage officer.

Any minister of religion desiring to be appointed a marriage officer shall make application in writing to the High Commissioner through the Resident Commissioner stating his qualifications. When a marriage officer has been guilty of an offence under this Proclamation or for other good and sufficient reasons, the High Commissioner may by notice in the *Gazette* suspend or cancel his appointment as marriage officer.

8. No marriage officer shall solemnize a marriage unless on proof that the banns thereof have been published or on production of a special licence for such marriage; and unless he is satisfied that there are no legal impediments to such marriage. Any marriage officer entertaining doubts as to whether he is legally entitled to solemnize a marriage may apply to the Resident Commissioner for legal advice thereupon.

#### *Solemnization of Marriage.*

9. Every marriage shall be solemnized in the presence of at least two witnesses competent to give evidence in a court of law; and between the hours of six o'clock in the morning and six o'clock in the afternoon. The public shall have access to any place or any part of any building in which a marriage is being solemnized.

10. In solemnizing a marriage any minister of religion shall follow the formulary in use in the congregation to which he belongs. Any Assistant Commissioner shall solemnize a marriage in the manner following:—

He shall require the bridegroom and bride to repeat separately after him the following words:—

"I (name of bridegroom or bride) do solemnly declare that I know not of any lawful impediment why I (name of bridegroom or bride) may not be joined in matrimony to (name of bride or bridegroom) here present" and each of them the bridegroom and bride shall say to the other "I call upon these persons here present to witness that I (name of bride or bridegroom) do take (name of bridegroom or bride) to be my lawful wedded (husband or wife)". Thereupon the bridegroom and bride shall give each other the right hand and the Assistant Commissioner

shall declare the marriage solemnized in these words:—

"I declare that (name of bridegroom) and (name of bride) here present are lawfully joined together in matrimony".

#### *Registration of Marriages.*

11. (1) Every marriage officer shall keep a register of marriages solemnized by him; and immediately after solemnizing any marriage he shall enter in such register the solemnization of such marriage the place and date thereof the full names of the parties their ages condition (whether widowers or bachelors widows or spinsters) and residence whether the marriage was by banns or special licence whether in the case of one or both of the parties being minors the marriage was with the consent of parents or guardians or by what authority and any other particulars that the Resident Commissioner may by notice in the *Gazette* direct. Such register shall thereupon be signed in duplicate by the parties (by name or mark) and by the marriage officer in the presence of two witnesses who shall also sign the register. The sum of two shillings and sixpence shall be paid to the marriage officer in respect of the registration of each marriage under this sub-section.

(2) A duplicate original of the register of every marriage together with the sum of two shillings and sixpence shall be transmitted by the marriage officer to the Government Secretary within one month after the solemnization of the marriage and all such duplicates shall be filed by him and carefully preserved in his office.

*Consecration of Marriages already Solemnized.*

12. Any minister of religion may consecrate or solemnize a marriage that has already been solemnized by a marriage officer and the provisions of this Proclamation shall not apply thereto.

13. No person may marry who has previously been married to any other person still living unless such previous marriage has been dissolved or annulled by the sentence of a competent court of law.

15. No minor or person below the age of twenty-one years not being a widower or widow may marry without the consent in writing of his or her parents or guardians, provided that

16. No persons may intermarry who are related within the forbidden degrees. Persons are related within the forbidden degrees when they are related to one another as follows:—

- of one of the parties was related to the other party as therein specified; provided that a man may marry his deceased wife's sister.

17. Any minister of religion or other person who not being a marriage officer performs a ceremony purporting to solemnize a marriage between two persons except in the case mentioned in section *twelve* shall be liable to a fine not exceeding two hundred pounds and in default of payment of the sum so payable shall be liable to a term of imprisonment not exceeding three months.

lawfully married and any person knowingly aiding abetting or procuring such a marriage shall be liable to a fine not exceeding two hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and such imprisonment.

20. Any instrument which is required by this Proclamation to be signed by a person shall be signed by him in the presence of a Justice of the Peace or a Magistrate, and the signature shall be attested by him, and the instrument shall be deposited with the Registrar of Deeds, and the Registrar shall be responsible for its safe custody, and shall be liable to pay a fine of not exceeding five shillings for every day in which it is not deposited.

21. Any instrument which is required by this

Proclamation to be signed by a person shall be signed by him in the presence of a Justice of the Peace or a Magistrate, and the signature shall be attested by him, and the instrument shall be deposited with the Registrar of Deeds, and the Registrar shall be responsible for its safe custody, and shall be liable to pay a fine of not exceeding five shillings for every day in which it is not deposited.

22. Any person making a will shall be solemnized by him together with the sum of two shillings and sixpence to the Government Secretary within one month of the solemnization thereof.

23. Any person making a will shall be solemnized by him together with the sum of two shillings and sixpence to the Government Secretary within one month of the solemnization thereof.

24. Any person making a will shall be solemnized by him together with the sum of two shillings and sixpence to the Government Secretary within one month of the solemnization thereof.

25. Any person making a will shall be solemnized by him together with the sum of two shillings and sixpence to the Government Secretary within one month of the solemnization thereof.

26. Any person making a will shall be solemnized by him together with the sum of two shillings and sixpence to the Government Secretary within one month of the solemnization thereof.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Thirteenth day of February, One thousand Nine hundred and Eleven.

GLADSTONE.

High Commissioner.

By Command of His Excellency the High Commissioner.

C. H. RODWELL,

Imperial Secretary.

10, of 1911.

C O  
1855

PROCLAMATION

18 MAY 1911

BY HIS EXCELLENCY THE HIGH COMMISSIONER,

WHEREAS it is expedient to amend the High Commissioner's Proclamation of the 10th of June 1891 hereinafter referred to as "the said proclamation" with reference to the issue of permissions to bring arms and ammunition within the limits of the Protectorate

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section thirty-eight of the said proclamation shall be and is hereby amended as follows:-

(a) by deleting therefrom the words "a Resident Commissioner an Assistant Commissioner or a Magistrate" and substituting in lieu thereof the words "the Resident Commissioner or an Assistant Commissioner or Magistrate duly authorised by the Resident Commissioner to grant permission for the importation of arms and ammunition"

(b) by adding at the end of the said section the words "The Resident Commissioner or an Assistant Commissioner or Magistrate shall not be bound to assign any reason for refusing to give such permission"

2. Section thirty-nine of the said Proclamation shall be and is hereby repealed

3. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect from the date of its publication in the Gazette.

WITNESSETH MY HAND

Given under my hand and seal at Cape Town this sixteenth day of February one thousand nine hundred and eleven.



*[Faint signature]*

High Commissioner.

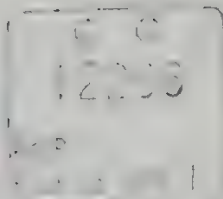
BY *[Signature]* SECRETARY TO THE HIGH COMMISSIONER,

*[Signature]*

Imperial Secretary.



No. of 1911.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the taking of a Census during the year nineteen hundred and eleven in the Territory and in subsequent years within the limits of the Barotsiland-North-Western Rhodesia Order-in-Council 1899 (hereinafter described as 'the Territory');

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. An account shall be taken in manner hereinafter directed of the number of persons and the number of each kind of live stock within the Territory of North-Western Rhodesia on such day in the year one thousand nine hundred and eleven and on such date in any subsequent year as the Administrator may appoint.
2. For the taking of such account the Administrator may appoint and remove supervisors and define the districts or areas for which they shall respectively act and determine the number of enumerators to be appointed by such supervisors respectively.
3. Every supervisor shall subject to the approval of the Administrator appoint enumerators for his district or area and assign sub-districts to such enumerators and

- subject -

subject to such approval as aforesaid may remove any such enumerator and appoint another in his place.

4. Every enumerator shall make and subscribe before a Justice of the Peace a solemn declaration in the form in the Schedule to this Proclamation annexed and shall deliver the same to the supervisor of the district when returning the forms under this Proclamation.

5. The Administrator may from time to time make alter and rescind regulations prescribing the forms to be used in the taking of the account in the first section mentioned and for the execution of all matters and things arising under this Proclamation not herein expressly provided for including regulations for ascertaining the number of natives and of persons travelling on the appointed day within the Territory and for the collection of agricultural educational industrial or other statistics by means of the census supervisors and enumerators and generally for the more fully carrying out the objects and purposes of this Proclamation; and such regulations when published in the Gazette shall have the full force of law and every person who shall be guilty of a breach of any such regulations shall be liable to a penalty not exceeding five pounds.

6. The Administrator may in such localities as may to him appear proper cause the necessary forms together with general instructions to be printed on the back of such forms to be left on or before the day in the first section mentioned at any dwelling in any enumerator's sub-district and in all such cases it shall be the duty of the occupier or person in charge of such dwelling to deliver on demand the said forms duly completed in every particular to the enumerator calling for the same: provided that said enumerator shall forthwith examine the said forms as handed to him and

shall satisfy himself that the said forms have been fully truly and correctly filled up and if not so filled up in every particular the enumerator shall himself then and there make the same complete according to the best information which he shall be able to obtain.

7. In cases not provided for by the last section the enumerator shall on the day next following that fixed by the first section or as soon thereafter as possible proceed to receive or take an account in writing of the number of persons who were within the limits of his sub-district on the night of the day so fixed and shall inform himself of all the particulars specified in the said forms using a separate form for each family occupying a separate dwelling or a separate portion of a dwelling the word "dwelling" meaning and including any house building booth tent wagon cart hut or other erection in or under which any person usually sleeps.

8. On receipt of the completed forms they shall be examined by such officer as the Administrator may appoint for that purpose and any defects or inaccuracies found therein shall be supplied or corrected as far as may be possible.

9. If any occupier or person in charge of any dwelling shall refuse or wilfully neglect to fill up to the best of his or her knowledge information or belief the forms left under the provisions of section six of this Proclamation at such dwelling or to sign and deliver the same or shall refuse or wilfully neglect to answer or shall untruly answer any enquiry made by an enumerator for any of the purposes of this Proclamation or shall wilfully make sign or deliver or cause to be made signed or delivered any

false return or statement of any particular in such forms or shall obstruct any person in the performance of any duty under this Proclamation the person so offending shall be liable to a penalty not exceeding five pounds. Such penalty shall not be imposed against any person who from conscientious scruples shall omit or decline to state his or her religion and the proof of such conscientious scruple may be the filling up of the column set apart for that purpose with the word "object"; and such penalty shall not be imposed for any false return or statement regarding the number of his or her live stock against any person who not being aware of the precise number of such stock shall give in respect thereof an estimate or reasonable approximation to the truth.

10. If any person accept the office of enumerator under this Proclamation and afterwards without lawful excuse refuse or wilfully neglect to perform any duty of such office the person so offending shall be liable to a penalty not exceeding five pounds.

11. If any officer supervisor enumerator or clerk divulges the contents of any forms under this Proclamation, he shall for every such offence be liable to a penalty not exceeding five pounds.

12. All fines imposed under this Proclamation or the regulations promulgated thereunder shall be recoverable in a summary manner before a Magistrate and in default of payment of any fine the accused shall be liable to imprisonment with or without hard labour for any period not exceeding one month unless such fine be sooner paid.



13. This Proclamation may be cited for all purposes  
as the "North-Western Rhodesia Census Proclamation 1911".

G O D S A V E T H E K I N G.

GIVEN under my hand and seal at *Cape Town*  
this *twenty 6/11* day of *February*  
one thousand nine hundred and eleven.



*J. M. W. T. M.*

High Commissioner.

By Command of His Excellency the High Commissioner.

*C. G. S. S.*

Imperial Secretary.



SCHEDULE.

FORM OF DECLARATION TO BE MADE BY ENUMERATORS.

I, \_\_\_\_\_, an Enumerator appointed under the North-Western Rhodesia Census Proclamation 1911, do solemnly and sincerely declare that the forms numbered from \_\_\_\_\_ to \_\_\_\_\_ inclusive, contained in the packet to which this declaration is attached, are all the forms under the said Proclamation which have been completed and received by me in the sub-district to which I was appointed, and that the whole contents of the said forms are true to the best of my knowledge, information and belief. And I make this solemn declaration conscientiously believing the same to be true.

(Signed) A. B.

Declared before me at \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Justice of the Peace.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

---

WHEREAS it is expedient to amend the Cattle  
Export and Purchase Proclamation 1908 (hereinafter referred  
to as "the said Proclamation") with reference to the  
dealings with native cattle in the territory included  
within the limits of the Barotsiland-North-Western Rhodesia  
Order-in-Council 1899;

NOW THEREFORE under and by virtue of the powers  
in me vested I do hereby declare proclaim and make known  
as follows:-

1. Section seven of the said Proclamation shall be  
and is hereby amended as follows:-

- (a) By inserting after the word "purchase" where the  
same occurs for the first time in the said section the  
words "or acquire by exchange or barter";
- (b) by adding at the end of the said section the  
words "exchange or barter".

2. Section eight of the said Proclamation shall be and is hereby amended by inserting after the word "purchase" the words "or acquire by exchange or barter".

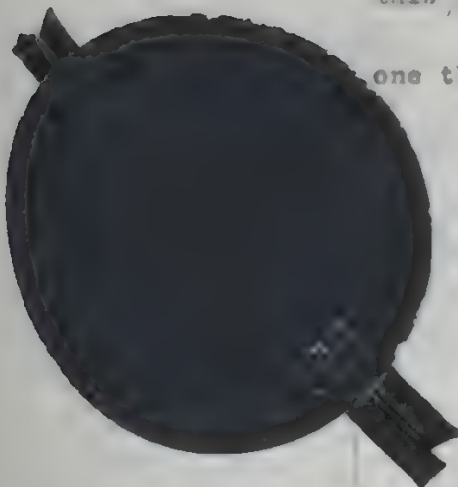
3. Section nine of the said Proclamation shall be and is hereby amended by inserting after the word "purchased" the words "or acquired by exchange or barter".

4. This Proclamation shall be read as one with the said Proclamation and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at Cape Town

this *20<sup>th</sup>* day of *February*  
one thousand nine hundred and eleven.



*[Signature]*

High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.

C O  
10624

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

JANUARY 1911

WHEREAS it is expedient to extend the power of making regulations for the good government of the place styled Francistown and in the neighbourhood thereof within the Bechuanaland Protectorate and for that purpose to repeal Proclamation No.2 of 1898 which provides for the making and carrying out of sanitary regulations only in the said place.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Proclamation No.2 of 1898 shall be and is hereby repealed but without prejudice to anything lawfully done or penalty incurred thereunder or under the regulations in the schedule thereto.

2. This Proclamation shall apply and be of force and effect within the area shown upon the map lodged in the Assistant Commissioner's Office at Francistown within

the Bechuanaland Protectorate and styled thereupon the area of "Francistown" in the said Protectorate and also within an area extending therefrom up to the line of railway constructed by the Bechuanaland Railway Company as shown upon the said plan and for a distance of one thousand yards westwards from the said line of railway between two lines formed by the extension of the streets styled First Avenue and Sixth Avenue upon the north and south sides respectively of the said area of Francistown as shown upon the said plan.

In addition to the provisions

3. The High Commissioner may from time to time make alter and revoke Regulations to be applied to the aforementioned areas or any portion thereof for all or any of the following purposes:-

- (a) for compelling the use by the inhabitants of the said areas of proper sanitary appliances and conveniences;
- (b) for regulating and compelling the removal of night soil stable litter filth and refuse from private premises and from all streets roads and public places;
- (c) for prohibiting the deposit of garbage refuse or rubbish in any street road or public place or on unoccupied land;
- (d) for preventing the overcrowding of any premises and regulating the number of persons who may occupy any premises;
- (e) for preventing the occupation of unoccupied land by unauthorised persons or squatters;



(f) for regulating and controlling the movements of natives during the night and the issue of passes to natives.

(g) for preserving the public health and proper sanitation of the said areas;

(h) generally for maintaining the good rule and government of the said areas.

Every such Regulation when published in the Gazette shall have the force of law within the said areas.

4. The High Commissioner may from time to time appoint persons whose duty it shall be to inspect the aforementioned areas and to take all necessary steps for the due observance of the said Regulations and to assist in prosecutions for the breach thereof.

5. Any person contravening the said Regulations shall be liable to prosecution in any court having jurisdiction and upon conviction may be sentenced to pay a fine not exceeding £20 and upon non-payment of such fine to be imprisoned with or without hard labour for any period not exceeding one month.

6. The regulations set out in the Schedule hereto shall until altered or revoked be the Regulations in force throughout the aforementioned areas.

7. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G .

- GIVEN -

GIVEN under my Hand and Seal at *Cape Town*

this *Second* day of *January*

one thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

S C H E D U L E.

REGULATIONS.

1. Every occupier of a house or premises shall provide thereupon a suitable closet fitted with one or more earth pails and shall provide for the same being emptied at least twice a week.
2. No person shall use any unoccupied portion of land for purposes for which, properly, only sanitary offices should be used.
3. Every occupier of a house or premises shall keep the same free from garbage, refuse, or rubbish and shall provide a suitable receptacle on his premises for the said rubbish, and shall provide for the removal of the contents thereof at least once a week.
4. No person shall deposit any garbage, refuse or rubbish in the streets or upon any unoccupied land within the area to which the foregoing Proclamation applies.
5. No dwelling house, outbuilding or any other tenement or premises shall be occupied by more inmates than any official appointed under section four of the foregoing Proclamation or some duly qualified medical man may pronounce to be fit and proper, and it shall be lawful for such official or medical man to give

twenty-four hours notice to the occupier of such house or tenement directing him to cause such number of persons as such official or medical man may think it expedient to remove to quit such house or tenement. Any person refusing to quit such premises or tenement after the service of such notice upon the occupier shall be held to be guilty of a contravention of this Regulation.

6. No native shall squat upon any unoccupied stand.

7. Every native shall be compelled to be in his location or place provided for him by his master from 9 p.m. to 4 a.m. unless he is provided with a special pass from the Assistant Commissioner or other Officer authorised by the Assistant Commissioner to grant such passes, or from his master setting forth the object of his absence. Any person offending against the provisions of this Regulation may be arrested by the police.

The word "native" for the purpose of this and the preceding Regulations shall have the meaning attached to it by section 11 of the High Commissioner's Proclamation of the 4th April 1892.

8. Every person contravening any of the aforesaid Regulations shall be liable upon prosecution and conviction to the penalties provided in the foregoing Proclamation.

9. Every occupier shall give all reasonable assistance to the person or persons appointed to attend to the

due observance of these Regulations and any person failing so to do or obstructing the said persons in the execution of their duties shall be liable on conviction to the penalties provided for contravention of these Regulations.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient to make further provision for preventing the introduction of diseases affecting animals into the Territory defined by the Barotsiland - North-Western Rhodesia Order-in-Council 1899 (hereinafter referred to as "the Territory");

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Proclamation No. 18 of 1906 and Proclamation No. 33 of 1910 shall be and are hereby repealed without prejudice however to anything lawfully done under the provisions thereof.
2. No person shall introduce or cause to be introduced any stock into the Territory without a permit in writing issued by the Administrator or by a District Commissioner or by such other officer as may be authorised by the Administrator to issue any such permit. Such permit may be refused at the discretion of the Administrator District Commissioner -

Commissioner or other officer aforesaid without any reason being assigned or may be issued upon such conditions as to quarantine isolation disinfection detention route to be followed by stock when being moved control of such stock by the owner thereof or his servant or upon such other conditions as may be specified therein.

3. (a) Whenever at any place within the Territory any stock is found affected or reasonably suspected of being affected with any disease the Administrator or any District Commissioner having jurisdiction in such place or <sup>any</sup> other person authorised thereto by the Administrator may by written order under his hand direct that such stock shall be seized and detained at such place or be removed for detention to any other place within his jurisdiction for such period as may be deemed necessary to prevent the spread of the disease or may direct that such stock be destroyed or otherwise dealt with in any manner necessary for preventing the removal of such stock to other places or the spread of the disease.

(b) Whenever at any place within the Territory or bordering on the Territory there exists or there is reasonable suspicion of the existence of any disease likely to affect stock the Administrator or a District Commissioner or any other person authorised thereto by the Administrator may by written notice under his hand prohibit the introduction of any stock into the Territory or issue such order as to movement prohibition of movement quarantine isolation disinfection sale purchase exchange or barter of any stock within the portion of the Territory named in such order or as to entrance into or departure from such

portion of the Territory of any stock for such period as may be deemed necessary to prevent the outbreak or spread of such disease.

4. Every person having in his possession or under his control any stock affected or suspected of being affected with any disease shall with all practicable speed give notice of the fact to the nearest officer of the district wherein such stock are.

5. The Administrator may from time to time make alter and rescind rules -

(a) regulating or prohibiting the introduction into the Territory of the meat bones horns skins hides hoofs or offal of any stock or of any of the animals specified in schedules 1 to 4 to Proclamation No.1 of 1906 or of any vehicles gear harness roads grass forage hay straw kraal manure or any other articles likely to act as a carrier of any disease;

(b) regulating or prohibiting the movement of any of the articles in the preceding subsection mentioned within any portion of the Territory specified in such rules.

6. All conditions upon which permission to import or move any animal article or thing may have been granted under this Proclamation or any rule made thereunder and all orders for the removal detention isolation quarantine or disinfection of any animal article or thing issued under this Proclamation or any rule made thereunder shall be fulfilled at the sole risk and expense of the owner or consignee of such animal article or thing or of any other

- person -

Person concerned or interested therein.

7. (a) Any person who shall contravene or attempt to contravene or aid any other person in contravening or attempting to contravene or who shall procure any other person to contravene or attempt to contravene any provision of this Proclamation or any rule made thereunder or any condition of a permit issued thereunder or who shall obstruct or prevent or attempt to obstruct or prevent or aid any other person in obstructing or preventing or attempting to obstruct or prevent or who shall procure any other person to obstruct or prevent or attempt to obstruct or prevent the seizure detention removal of or the dealing with any stock under the provisions of this Proclamation or of any rule made thereunder shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment thereof to imprisonment with or without hard labour for any period not exceeding six months or to both such fine and imprisonment.

(b) Notwithstanding anything in Proclamation No.6 of 1905 contained any Magistrate having jurisdiction at the place where any act or omission declared by the preceding subsection to be punishable is alleged to have been done or omitted may try such case summarily and may impose the penalties in the preceding subsection therefor prescribed.

8. In any prosecution for failure to obtain or be possessed of any permit required by this Proclamation or by a rule made thereunder the accused shall be deemed to be without such permit unless he shall produce the same to the Court or give other satisfactory proof of having obtained or being possessed of such permit.

9. No person shall be liable to any suit or action in



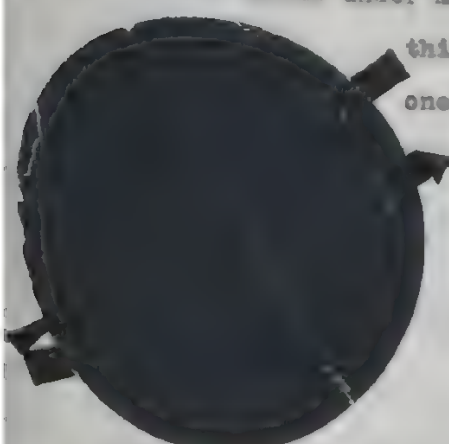
respect of any act done under lawful direction and authority pursuant to the provisions of this Proclamation or of any rule made thereunder provided always that the owner of any stock destroyed shall be entitled to compensation in case he shall prove that it was not suffering from such disease at the time of its destruction.

10. In this Proclamation the term "disease" shall mean Rhodesian Redwater Rinderpest Redwater Lung sickness Tuberculosis Foot and Mouth Disease Anthrax Glanders Farcy Scab Swine Fever Swine Erysipelas Mange Ulcerative Lymphangitis Sheep Pox or any other contagious or infectious disease amongst stock to which this Proclamation may be applied by the Administrator by notice under his hand and "stock" shall include cattle horses sheep goats mules donkeys pigs and any other animals to which this Proclamation may be applied by the Administrator by notice under his hand.

11. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Cape Town*  
this *Sixth* day of *March*  
one thousand nine hundred and eleven.



*W. J. L. M. M.*

High Commissioner

By Command of His Excellency the High Commissioner.

*L. H. M.*

Imperial Secretary.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

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WHEREAS it is expedient to amend the law relating to the disposal of Crown Lands in Swaziland;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The laws and regulations mentioned in the Schedule annexed hereto and so much of any other law as is repugnant to or inconsistent with the provisions of this Proclamation shall be and are hereby repealed to the extent to which they are in force in Swaziland.

2. In this Proclamation unless inconsistent with the context "Crown Lands" shall mean and include

(a) any land in Swaziland not being land set apart and demarcated by or on the authority of the High Commissioner for the sole and exclusive occupation of natives which may be proclaimed by the High Commissioner as Crown Lands;

(b) any land in Swaziland which has been or may hereafter be lawfully transferred to or expropriated by the High Commissioner in exercise of the powers in him vested by proclamation or otherwise for the peace order and good government of Swaziland; but shall not include

- (i) any land under the control of the High Commissioner by virtue of sections three or five of Proclamation No.13 of 1909 or
- (ii) the land proclaimed to be Crown Land by Proclamation No.23 of 1909 and dealt with by Proclamation No.24 of 1909.

3. The High Commissioner may dispose of Crown Lands by grant sale lease or otherwise in such manner and on such conditions as he may deem advisable and may grant any Crown Land in exchange for any other land or interest therein if it shall appear to him expedient to do so.

4. All rights to precious or base metals, precious stones minerals or mineral products shall be excluded from the grant sale lease or other disposal of Crown Lands under this Proclamation.

5. (a) It shall be lawful for the High Commissioner to resume for public purposes the whole or any portion of any land alienated under this Proclamation subject to the payment of such compensation as may be agreed upon between the High Commissioner and the grantee or lessee of or other person interested in such land or in default of agreement as may be determined by arbitration in manner provided by the Expropriation

of Lands and Arbitration Clauses Proclamation 1902 of the Transvaal or any amendment thereof as in force in Swaziland.

(b) The High Commissioner shall at all times have the right to make roads dams watercourses and drains and to conduct telegraphs and telephones through and over any land alienated under this Proclamation for the benefit of the public and to take materials for these purposes also to establish convenient outspans for the use of travellers on payment to the grantee or lessee or other person interested of such sum of money as compensation for improvements as may be mutually agreed to between the parties concerned or failing such agreement as may be determined by arbitration in manner provided by the Expropriation of Lands and Arbitration Clauses Proclamation 1902 of the Transvaal or any amendment thereof as in force in Swaziland provided that the arbitrators may set off against the loss or damage caused to the grantee or lessee or other person as aforesaid the benefit instant or prospective which he shall or may derive in consequence of the construction of any of the said works.

6. All grants of Crown Lands shall be signed by the High Commissioner and shall be dated and sealed with the seal of his Office and such date shall be deemed the date of issue. All leases or agreements relating to the disposal of land shall be signed by the High Commissioner or such other Officer as may <sup>be</sup> appointed thereto by the High Commissioner.

7. The Registrar of Deeds shall open and keep special registers wherein all leases of Crown Lands shall be registered and notwithstanding anything contained in the Transfer Duty Proclamation 1902 of the Transvaal the Stamp Duties Amendment Proclamation of 1902 of the Transvaal the Deeds Proclamation of 1902 of the Transvaal Deeds Office Regulations or any amendments of the aforementioned enactments of force in Swaziland such leases need not be drawn before a Notary Public nor shall they be subject to transfer duty or stamp duty except in case of subsequent transfer or cession when such transfer or cession shall be in the ordinary form and subject to the duties prescribed by law. In cases where the Crown is not in possession of written title to any land leased the entry in the special register kept in the Deeds Office shall be regarded as effective registration.

8. On the termination or cancellation of any such lease as aforesaid the Resident Commissioner shall forward to the Registrar of Deeds a notification to that effect duly signed by him and by the Lessee together with the copies of the Deeds held by them and the Registrar shall thereupon cancel the registration of such lease without payment of any fee for such cancellation; provided that in cases where the consent of the lessee to cancellation cannot be obtained a certificate to that effect by the Resident Commissioner and his consent shall be deemed sufficient authority to the Registrar of Deeds to cancel the registration of such lease.

9. Where one or more lots of land sub-divided according to a general plan filed in the Deeds Office is or are granted or leased by the High Commissioner it shall



not be necessary to annex a diagram to such grant or lease but as soon as it is first sought to transfer or lease a portion of such lot there shall in addition to a diagram of that portion annexed to the transfer or lease of that portion be filed in the Deeds Office a diagram of the whole lot. The last named diagram may be a copy certified by the Surveyor-General of a portion of the general plan mentioned in this section.

10. If it is found that the description or diagram of the land the subject of any grant or lease under this Proclamation does not properly describe the land intended by the grantee or lessee to be therein comprised or to which such grantee or lessee is entitled either by reason of an error in the description or survey or from any other cause the Resident Commissioner may recall such grant or lease and an amended grant or lease may be issued in lieu thereof; provided that if there be a dispute between the High Commissioner and the grantee or lessee as to the boundaries of the land or the diagram the cancellation of the original grant lease or diagram shall take place in accordance with the existing laws relative thereto.

11. The High Commissioner may insert in any grant or lease under this Proclamation such conditions as he may deem necessary to secure the beneficial occupation of the land granted or leased and may prescribe such penalties for non-fulfilment of such conditions including cancellation or forfeiture of any grant or lease as he may think fit. The High Commissioner may waive the penalties so provided in any case where he may think such waiver just or equitable.



12. The High Commissioner may make regulations

(a) for the establishment and proclamation of towns and proper laying out and survey of erven or lots therein;

(b) for prescribing the form of grants or leases under this Proclamation;

(c) for any object or purpose that may be deemed necessary for the efficient administration of this Proclamation.

All such regulations shall be of force and effect on publication in the Gazette.

13. This Proclamation may be cited as the Swaziland Crown Lands Disposal Proclamation 1911 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G.

GIVEN under my Hand and Seal at *Cape Town*

this *thirteenth* day of *June*

one thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*  
Imperial Secretary.

S C H E D U L E.

Volkstraad Resolution of 5th June 1876 No.105 of the  
Transvaal.

Volkstraad Resolution of 7th June 1876 No. 107 of the  
Transvaal.

Law 4/1899 of the Transvaal.

Crown Lands Disposal Ordinance No.57/1903 of the  
Transvaal and Regulations made thereunder.

Settlers Ordinance No. 45/1902 of the Transvaal  
and Regulations made thereunder.

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PROCLAMATION

by His Excellency the High Commissioner.

Whereas the disease amongst animals known as "surra" (trypanosomiasis) exists or is suspected to exist in the territory of German South West Africa and it is therefore expedient to take measures for preventing the spread of the said disease to the Bechuanaland Protectorate;

I, the High Commissioner, under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. It shall not be lawful without the written permission of the Resident Commissioner to introduce or to cause or allow to be introduced into any part of the Bechuanaland Protectorate any cattle pigs sheep camels goats horses mules or donkeys from the territory of German South West Africa.

2. All cattle pigs sheep camels goats horses mules or donkeys which may enter the Bechuanaland Protectorate in contravention of this proclamation shall be liable to be destroyed.

3. Any person contravening the provisions of this proclamation shall upon conviction be liable for every such offence to a fine not exceeding one hundred

pounds or in default of payment thereof to imprisonment with or without hard labour for any period not exceeding six months unless such fine be sooner paid.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

GIVEN under my Hand and Seal at *Cap Town*  
this *Sixteenth* day of March, One Thousand  
Nine Hundred and Eleven.



By Command of His Excellency

the High Commissioner.

*[Handwritten signature]*

Imperial Secretary.

No. 15 of 1911.

PROCLAMATION

by His Excellency the High Commissioner.

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WHEREAS it is desirable to make further provision out of the public revenue of Swaziland for the service of the year ending the thirty-first day of March 1911:

Now KNOWING that under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare Proclaim and make known as follows:-

1. The public revenue of Swaziland is hereby charged towards the service of the year ending the thirty-first day of March 1911 with a further sum of £1,086 (one thousand six hundred and eighty-eight pounds).
2. The moneys granted by this proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this proclamation.
3. This proclamation may be cited as the



Swaziland Additional Appropriation 1910-11 Proclamation  
1911 and shall have force and take effect from the date  
of its publication in the Gazette.

GOD SAVE THE KING I

GIVEN under my Hand and Seal at *Cape Town*  
this *Twentieth* day of March One  
thousand Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

and of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

Summary.

No.	Head of Service.	Amount.
7.	Public Works ... ..	2810.
11.	Veterinary ... ..	26.
13.	Interest ... ..	553.
14.	Miscellaneous ... ..	<u>300.</u>
	Total ... ..	<u>\$1,689.</u>

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamation No. 15 of 1909 as amended by Proclamation No. 21 of 1909 in order to facilitate the transfer of land selected by the Special Commissioner under the said Proclamation and the Swaziland Concessions Partition Proclamation 1907 from Land Concessions held in unsurveyed portions or in unsurveyed portions and also in undivided shares and for other purposes;

AND WHEREAS it is expedient further to amend The Swaziland Concessions Partition Proclamation 1907;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section ten of Proclamation No. 15 of 1909 as amended by section five of Proclamation No. 21 of 1909 shall be and is hereby amended by the deletion of sub-section (4) thereof and the substitution of the following sub-sections :-

(4) The cost of determining the boundaries of the divisions of any land concession area under sub-section (2) of this section shall be ascertained by the Special Commissioner or other officer who determines such boundaries and allocated by such officer between the owners of such divisions. The amount so allocated against each such owner shall be paid by him to the Swaziland Administration within three months after notification thereof shall have been given to him by registered letter if the address of such owner be known to the Special Commissioner or otherwise by advertisement in the Official Gazette of the High Commissioner.

(5) The Special Commissioner shall cause notice in writing to be given to the Registrar of Deeds of the amount due under the last preceding sub-section by each such owner and the said Registrar shall upon receipt of such notice make a note of such amount in the Concessions Register kept in his Office and from and after such noting it shall not be lawful without the Order of a competent Court to transfer mortgage or otherwise encumber such division until such note shall have been deleted by the Registrar. Such note shall be deleted as soon as the Registrar receives written notice from the Resident Commissioner that the amount noted as aforesaid has been paid.

2. Notwithstanding anything contained in section four (4) of the Swaziland Concessions Partition Proclamation 1907 or section five (2) of Proclamation No.15 of 1909 or in section one (3) of Proclamation No.21 of 1909 the Registrar of Deeds may call upon the owner or owners of any land

concession to produce their title-deeds and the diagram or diagrams of such concession. The Surveyor-General shall thereupon deduct from such diagram or diagrams any area or areas selected or demarcated under the provisions of the said Proclamations and the Registrar of Deeds shall register such area or areas so deducted in the name of the High Commissioner and note such transfer on the aforesaid title-deeds. Such registration shall be deemed to be a valid transfer of the area in terms of the said sections. The Registrar of Deeds shall issue to the High Commissioner a certificate of title to the area or areas of any concession thus transferred into his name

3. (a) If in consequence of such deduction as is provided for by the preceding section or in consequence of the demarcation of native areas under section four (2) of the Swaziland Concessions Partition Proclamation 1907 it shall appear on a later determination of the boundaries of such portions of any such concession that the area of one or more portions has been reduced by more than one-third it shall be competent for the Registrar of Deeds on production to him of an agreement between all the registered owners of portions signed in the presence of a Notary Public, Resident Magistrate or Justice of the Peace providing for a re-arrangement of the boundaries of their respective portions and subject to the provisions of section nine of this Proclamation to note such agreement against the title-deeds of such portions and such boundaries shall thenceforth be the boundaries of the said portions as though they had been so described in the title-deeds of the holders thereof.



(b) The provisions of this section shall also mutatis mutandis apply in cases where a concession or portion of a concession affected by such deduction or demarcation is registered both in undivided shares and unsurveyed portions and it is desired to determine the defined areas to be held by the respective owners.

4. No transfer duty stamp duty or registration fee shall be payable on the registration of such agreement provided that the Resident Commissioner certifies that the re-arrangement of boundaries or determination of areas as the case may be represents a fair and equitable distribution of the rights of owners of portions or shares respectively after deduction or demarcation of areas for and on behalf of the High Commissioner or on behalf of the natives.

5. The Surveyor-General shall not approve the diagram of a portion of a concession from which areas have been deducted as in this Proclamation provided unless such an agreement as is referred to in section three hereof has been filed with the Registrar of Deeds and the diagram is consistent with the terms of such agreement. *or unless the boundaries of such portion shall have been determined by the Special Commissioner under section ten hereof.*

6. (a) Where under the provisions of Proclamation No.15 of 1909 as amended by Proclamation No.21 of 1909 and Proclamation No.52 of 1910 an area is to be granted as compensation to the holders of a concession and such concession is registered in portions, or in portions and also in undivided shares, such area shall be granted to them in such undivided shares or in such portions as they may agree to provided that the deed of agree-

agreement signed before a Notary Public Resident Magistrate or Justice of the Peace be lodged with the Resident Commissioner and subsequently filed by him in the Deeds Office and provided further that the provisions of section nine of this Proclamation have been complied with. No transfer duty stamp duty or registration fee shall be payable on such grant if the Resident Commissioner certifies that the undivided shares or portions represent a fair and equitable equivalent of the shares or portions for which the grantors are respectively being compensated.

- (b) If in lieu of a grant of land such compensation is to be made by payment of money it shall be competent for the holders of the concession to whom such compensation is due to file with the Resident Commissioner an agreement as to the amount to be paid to each signed before a Notary Public Resident Magistrate or Justice of the Peace and when so paid the claim of each of such holders shall be deemed to have been fully satisfied.

7. The High Commissioner may issue to owners of a concession which is held in portions or in portions and also in undivided shares and in respect of which such owners may claim freehold title under section seven of the Swaziland Concessions Partition Proclamation 1907 Crown Grants of undivided shares of land in lieu of their titles to the respective portions or shares provided that an agreement signed by all the owners before a Notary Public Resident Magistrate or Justice of the Peace be lodged with the Resident Commissioner and subsequently filed by him in the Deeds Office and provided that the Resident Commissioner certifies that the undivided shares agreed upon are ap-

approximately equivalents of the portions or shares as the case may be held by such owners.

8. Whenever a copy of the title to any concession is required solely for the purpose of obtaining a freehold grant in lieu thereof and all necessary steps have been taken to obtain a certified copy in lieu of the lost or destroyed original the Registrar of Deeds may if there is no valid objection to the issue of such a copy dispense with the production thereof.

9. (a) In all cases where the land which is the subject of any such agreement as is described in this Proclamation is mortgaged leased or encumbered otherwise than by another concession the consent of the mortgagee lessee or holder of the encumbrance signed before a Notary Public Resident Magistrate or Justice of the Peace to such agreement together where necessary with the mortgage bond lease or deed of encumbrance shall be lodged with the Resident Commissioner or Registrar of Deeds as the case may be.

(b) An endorsement of re-arrangement of boundaries or demarcation of areas effected under the provisions of section three of this Proclamation made by the Registrar of Deeds upon the mortgage bond lease or deed of encumbrance in terms of such consent shall be deemed to mortgage lease or encumber the land held by the mortgagor lessor or grantor of the encumbrance in accordance with such agreement as fully and effectually as was the land or share therein described in such bond lease or deed of encumbrance.



10. The holder of any unsurveyed portion of a concession in respect of which a deduction or demarcation such as is referred to in section two has been made may apply to the Special Commissioner for a re-arrangement of the boundaries of the registered portions of the concession. The provisions of sub-section (2) of section ten of Proclamation No.15 of 1907 shall thereupon apply and the Special Commissioner may proceed to determine the boundaries aforesaid. In determining such boundaries the Special Commissioner shall as far as possible treat each portion of the concession as being pro rata subject to the deduction and demarcation to which the whole concession was by law subject provided always that in any case where in the opinion of the Special Commissioner such treatment is for any reason inequitable or unjust whether because of any grant or contract made or entered into before the date of this Proclamation or for any other reason whatsoever the Special Commissioner may in his uncontrolled discretion determine the boundaries in such manner as he shall think fit. If any such concession be registered in undivided shares as well as in portions the Special Commissioner may determine the portions which shall be substituted for any such shares. There shall be no appeal from any decision of the Special Commissioner under the provisions of this section.

11. Section seven of the Swaziland Concessions Partition Proclamation 1907 shall be and is hereby amended by insertion after the words "preceding section" in line 14 thereof of the words "and further subject to such mortgage bonds leases or other encumbrances as are at the date of issue of such freehold title registered against such concession".

12. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907 and any

Proclamation amending the same and shall have effect from  
the date of its publication in the Gazette.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at *Lige Town*

this *28<sup>th</sup>* day of *March*

one thousand nine hundred and eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency the High Commissioner.

*[Signature]*

Imperial Secretary.



by His Excellency the High Commissioner.

It is desirable to make provision out of the public revenue of the Bechuanaland Protectorate for the service of the year ending the thirty-first day of March 1912.

Under and by virtue of the powers in me vested I do hereby declare special and more known as follows:-

1. The public revenue of the Bechuanaland Protectorate which shall for the purposes of this Proclamation be deemed to include the amount voted by the Parliament of the United Kingdom of Great Britain and Ireland as a grant-in-aid of the revenue of the Protectorate is hereby charged towards the service of the year ending the thirty-first day of March 1912 with a sum of £68,551 (sixty-eight thousand five hundred and fifty-one pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the schedule annexed hereto and more particularly specified in the estimates of the expenditure of the Protectorate for the year ending the thirty-first day of March 1912 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this proclamation.

4. This Proclamation may be cited as the Bechuana-land Protectorate Appropriation Proclamation 1911 and shall have force and take effect from the first day of April 1911.

GOD SAVE THE KING !

GIVEN under my Hand and Seal at *Cape Town*  
this *Twenty-ninth* day of March, One  
thousand Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency

the High Commissioner.

*[Signature]*  
Imperial Secretary.

# SCHEDULES.

1. Pensions	11,076
2. Resident Commissioner	4,432
3. Legal	2,450
4. District Administration	4,346
5. Posts	2,736
6. Customs	30
7. Police	27,405
8. Miscellaneous	1,170
9. Public Works Department	2,100
10. Public Works Extraordinary	1,500
11. Medical	1,200
12. Education	1,100
13. Veterinary	1,000
14. Construction of Posts	200
15. Census	750
	<hr/>
	266,881

PROCLAMATION

by His Excellency the High Commissioner.

WHEREAS Ordinance No. 37 of 1903 of the Transvaal known as the Public Holidays Ordinance 1903 is a law in force in Swaziland:

AND WHEREAS it is desirable to amend the said law as regards its application to Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. Schedule II of Ordinance No. 37 of 1903 of the Transvaal shall be and is hereby amended as regards its application to Swaziland by the deletion therefrom of the words "The King's Birthday (November 9th)" and by the substitution therefor of the words "The King's Birthday (June 3rd)".

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

GIVEN under my hand and seal at Cape Town

this

this *fifth* day of April, One  
thousand Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency

the High Commissioner.

*[Signature]*  
Imperial Secretary.



No. 19 of 1911.]

### PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS by the Basutoland Marriage Proclamation 1911 (herein after referred to as "the said Proclamation") it is provided that no marriage shall be valid unless solemnized by a marriage officer;

And whereas any minister of religion whom the High Commissioner has by notice in the *Gazette* appointed a marriage officer is a marriage officer under the said Proclamation;

And whereas certain ministers of religion were by notice in the *Gazette* published on the 22nd day of February 1911 appointed as marriage officers under the said Proclamation but inasmuch as such notice was published after the date when the said Proclamation took effect to wit the 14th February 1911 doubts have arisen as to the validity of certain marriages solemnized between the said fourteenth and the twenty-second days of February 1911 by certain ministers of religion appointed as marriage officers by such notice;

And whereas the said marriages were bona fide contracted by the parties thereto and were bona fide solemnized;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

- (1) All marriages solemnized under the said Proclamation between the fourteenth day of February 1911 and the twenty-second day of February 1911 (both dates inclusive) by any minister of religion appointed as a marriage officer by the High Commissioner by notice in the *Gazette* published on the 22nd day of February 1911 shall be valid and effectual to all intents and purposes as if such minister of religion had been duly appointed a marriage officer under the said Proclamation on the date when the said Proclamation took effect, that is to say on the 14th February 1911, provided always that in every other respect the provisions of the said Proclamation shall have been complied with.
- (2) Notwithstanding anything to the contrary contained in section *seventeen* of the said Proclamation no penalty shall be recoverable and no imprisonment imposed on any minister of religion in respect of any marriage referred to in section *one* of this Proclamation.
- (3) This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-ninth day of May One thousand Nine hundred and Eleven.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

23  
1912

## PROCLAMATION

His Excellency the High Commissioner.

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WHEREAS it is desirable to make provision out of the Public Revenue of Swaziland for the service of the year ending the thirty-first day of March 1912:

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The public revenue of Swaziland is hereby charged towards the service of the year ending the thirty-first day of March 1912 with a sum of £45,721 (forty-five thousand seven hundred and twenty-one pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the schedule annexed hereto and more particularly specified in the Estimates of the Expenditure of Swaziland for the year ending the thirty-first day of March 1912 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been

- granted -

Granted respectively by this Proclamation.

4. This Proclamation may be cited as the Swaziland Appropriation Proclamation 1911 and shall have force and take effect from the first day of April 1911.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria on the 14<sup>th</sup>  
day of May one thousand Nine hundred and Eleven.



*[Handwritten signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Handwritten signature]*

Imperial Secretary.

SCHEDULE.

No.	Head of Service.	Amount.
1	Establishments	10,362
2	Police	14,255
3	Transport	790
4	Posts and Telegraphs	2,042
5	Census	500
6	Administration of Justice	2,552
7	Public Works	2,015
8	Medical	2,080
9	Education	1,849
10	Veterinary	841
11	Allowances etc., Native Chiefs	1,050
12	Pensions	681
13	Interest	3,000
14	Refunds of Revenue	50
15	Miscellaneous	1,000
16	Sinking Fund	2,054
		<hr/>
		845,721
		<hr/>

## PROCLAMATION

By His Excellency the High Commissioner

WHEREAS by clause *eight* of an Order of His Majesty-in-Council dated the fourth day of May 1911 and hereto annexed it is provided that the said Order shall commence and come into operation on a day to be fixed by the High Commissioner;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known that the said Order of His Majesty-in-Council shall come into operation on the ninth day of June 1911.

(GOD SAVE THE KING.)

Given under my Hand and Seal at Pretoria this First day of June One thousand Nine hundred and Eleven.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

AT THE COURT AT BUCKINGHAM PALACE.  
*The 4th day of May, 1911.*

## PRESENT:

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	LORD HAVERSHAM
EARL CARRINGTON	LORD ASHEY ST. LEDGERS.

Whereas it is expedient to amend the provisions of the Southern Rhodesia Order-in-Council, 1898 (herein after referred to as "the Order of 1898"), and the provisions of the Southern Rhodesia Order-in-Council, 1903 (herein after referred to as "the Order of 1903");

And whereas it is expedient to ensure to the Company the control of financial matters while preserving to members of the Legislative Council full liberty of discussion and debate;

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Southern Rhodesia Order-in-Council, 1911.

2. The number of members of the Executive Council for Southern Rhodesia appointed by the Company shall be three instead of four; and the word "three" shall accordingly be substituted for the word "four" in paragraph (1) of article *thirteen* of the Order of 1898.

In paragraph (3) of article *fourteen* of the Order of 1898 the word "two" shall be substituted for the word "three".

3. In the paragraph of article *two* of the Order of 1903, which is marked 17 (1), the word "twelve" is hereby substituted for the word "fourteen"; and the word "five" is hereby substituted for the word "seven", where that word first occurs in the said paragraph.

4. In the paragraph in article *two* of the Order of 1903, which is marked 17 (3), the following words are hereby revoked and shall be deleted, that is to say, the words "The elected members shall rank among themselves in order of the date of their election; and two or more members elected on the same day shall rank in the alphabetical order of their names".

5. The Administrator or member presiding may from time to time appoint one of the members of the Council to be Chairman of Committees for the Session then current, and in the event of the absence of such Chairman by reason of illness or any other cause, he may nominate a member of Council to act as Chairman for the day.

6. The Legislative Council shall not consider any vote, resolution or ordinance for the appropriation of any part of the public revenue or for any tax or impost that has not been first recommended to the Council by the Administrator during the same Session.

7. Ordinances interfering with the land and other rights of the Company shall not be proceeded with except with the consent of the Administrator.

*Order of 1898  
Amended  
1st 1903*



8. The Order shall be published in the *Gazette* and commenced and brought into operation on a day to be fixed by the High Commissioner, and the High Commissioner shall give directions for the publication of this Order, at such place and in such manner and for such time or times as he shall deem proper for giving the public notice thereof.

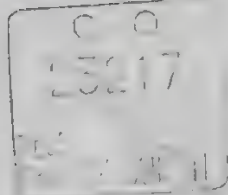
9. His Majesty may from time to time revoke, alter and add to or amend this Order.

ALMUTIO FITZROY

(Printed by the Government Printer, Pretoria.)

X

No. 5 of 1911



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is expedient to amend Proclamation No. 15 of 1904 with reference to the right of appearance before Courts of Resident Magistrate in the Bechuanaland Protectorate:

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section 7 of Proclamation No. 15 of 1904 shall be and is hereby amended by the insertion therein after the word "Proclamation" where it first occurs in the said section of the following words "persons entitled to appear in Courts of Resident Magistrate under the provisions of Rule 13 in Schedule B to Act 20 of 1886 of the Cape of Good Hope".

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Palmer*  
This *11th* day of *March* One thousand  
Nine hundred and Eleven.



*Palmer*  
High Commissioner

By Command of His Excellency  
the High Commissioner

*W. H. Wood*

Imperial Secretary.

1911.

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25232  
1911

PROCLAMATION

By His Excellency the High Commissioner.

Whereas it is desirable to impose a tax on owners of cattle in Swaziland to meet the cost of compensation for cattle to be destroyed under any law or regulation in the prevention and eradication of the disease known as East Coast Fever.

NOW KNOW ALL MEN under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation the term "cattle" shall mean bulls, oxen, cows, heifers and calves.

2. Every owner of cattle in Swaziland other than persons liable to pay the tax imposed by Proclamation No. of shall on demand pay to the Swaziland Administration a tax of one shilling for each half year for a period not exceeding two years commencing from the first day of July, 1911, and a tax of sixpence for each half year for a period not exceeding three years commencing from the first

day of July, 1913, on every head of cattle in Swaziland owned by or in the possession of such owner on the first day of July and the first day of January in each year.

3. Where any person liable thereto refuses or neglects to pay on demand the aforesaid tax the same shall be recoverable together with the costs incidental to such recovery by civil process issued out of the Court of Assistant Commissioner of the district in which such person who is in default of payment shall reside or of the district where the cattle in respect of which such tax is payable shall be found as if the same were a judgment of such Court of Assistant Commissioner. Provided that no writ of execution shall be issued except on a certificate under the hand of the Government Secretary setting out the name of the person so in default the amount of tax unpaid that demand has been made for the payment of the same and the nature of such demand. A personal demand for the payment of the said tax made by any person authorised thereto by the Resident Commissioner to the person liable for the payment thereof or his duly authorised agent; or a letter of demand sent by registered post to the last known address of such person or his agent as aforesaid shall be deemed to be a sufficient demand under this section.

4. All amounts collected under this Proclamation shall be paid into the Swazi National Fund established under Proclamation No.      of      .

5. Whenever under the Swaziland East Coast Fever Prevention Proclamation 1910 or under the Diseases of Stock Regulations as from time to time in force under the Swaziland Diseases of Animals Proclamation 1908 or any other



law any cattle shall be destroyed compensation of such amount per head or otherwise as may be from time to time assessed by the Resident Commissioner or fixed by regulation shall be paid by the Swaziland Administration to the owner of any cattle so destroyed or his duly authorised agent and such compensation shall be payable out of the Swazi National Fund provided that no compensation shall be paid to any owner who shall at the date when such cattle are destroyed be in default in the payment either of the tax imposed by this Proclamation or the tax imposed by Proclamation No. 1 of 1911 as the case may be.

6. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Victoria* this  
day of *June* One thousand Nine hundred  
and Eleven.



High Commissioner.

By Command of His Excellency  
the High Commissioner

*(Signature)*  
Imperial Secretary.

No. of 1911

23232

# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable in the interests of the Natives of Swaziland to create a special fund for the purposes hereinafter mentioned, and for that purpose to impose a tax the proceeds of which shall be paid into such fund;

and therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. There shall be paid to the Swaziland Administration by every adult male native domiciled in Swaziland the sum of two shillings sterling per annum which sum shall become due and payable on the first day of January of each year commencing with the year, 1911. The provisions of the Native Tax Ordinance, 1902, of the Transvaal as amended by Proclamations Nos. 10 of 1906 and 19 of 1909 and of force in Swaziland and the Statutory Regulations thereunder shall, mutatis mutandis, be deemed to apply in the collection of the tax imposed by this Proclamation;

- provided -

5. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *London*  
this *Twenty-sixth* day of *June* One thousand  
Nine hundred and Eleven.



High Commissioner.

Command of His Excellency  
the High Commissioner.

A handwritten signature in ink, likely of the Imperial Secretary, written in a cursive style.

Imperial Secretary.

No. 25 of 1911

## PROCLAMATION

By HIS EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is desirable to make further provision out of the public revenue of Basutoland for the service of the year ending the thirtieth day of June 1911

Now therefore under and by virtue of the powers in me vested I do hereby declare provision and make known as follows:

1. The public revenue of Basutoland is hereby charged towards the service of the year ending the thirtieth day of June 1911 with a sum of £13,415 (thirteen thousand four hundred and fifteen pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and shall not be used or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

3. This Proclamation may be cited as the Basutoland Additional Appropriation 1910-11 Proclamation, 1911 and shall have force and take effect from the date of its publication in the *Gazette*.

God Save the King.

Given under my Hand and Seal at Pretoria this Twenty-sixth day of June One thousand Nine hundred and Eleven.

GLADSTONE,

High Commissioner

By Command of His Excellency the  
High Commissioner:

C. H. RODWELL,

Deputy Secretary.

## SCHEDULE.

No.	Head of Service	Amount
1.	Establishments . . . . .	£425
2.	Allowances to Chiefs . . . . .	600
3.	Other Contingencies . . . . .	100
4.	Public Works . . . . .	3,590
5.	Miscellaneous . . . . .	5,000
6.	Agriculture . . . . .	3,000
7.	National Council . . . . .	500
8.	Pensions . . . . .	200
		£13,415

(Printed by the Government Printer, Pretoria.)

NOT ACKNOWLEDGED

No. 26 of 1911.]

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for a duty of excise on cigarettes made in Basutoland, and a corresponding surtax on cigarettes imported for consumption in Basutoland:

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. This Proclamation may be cited for all purposes as the "Cigarette Excise and Surtax (Basutoland) Proclamation 1911" and shall have force and take effect from the first day of July 1911.

2. In this Proclamation unless inconsistent with the context—

"cigarettes" shall be taken to include all articles made of cut tobacco, rolled or enveloped in paper, leaf or other covering;

"duty" shall mean the duty of excise leviable and payable under this Proclamation;

"imprisonment" shall mean imprisonment with or without hard labour as the court which passes sentence may direct;

"net weight" shall mean the weight of tobacco together with that of the paper covering and attached mouthpiece, of each individual cigarette;

"surtax" shall mean the tax payable under this Proclamation on the importation into Basutoland of cigarettes, in addition to any customs duty payable on their first importation or when cleared from a bonded warehouse for home consumption and for the purposes of any law relating to postal administration, shall be deemed to be customs duty;

"tobacco" shall include all substitutes therefor.

3. From and after the taking effect of this Proclamation there shall be levied, collected, and paid for the benefit of the public revenue of Basutoland on all cigarettes manufactured in Basutoland, whether made from tobacco grown or produced in Basutoland, or from tobacco imported into Basutoland, or from a mixture of Basutoland grown and imported tobaccos, the duty of excise as set forth in the schedule to this Proclamation, and the duty shall be collected in the manner herein after prescribed.

4. A surtax as set forth in the said schedule shall be levied, collected, and paid, for the benefit of the public revenue of Basutoland, on cigarettes entered for consumption within Basutoland, either on first importation or when cleared from a bonded warehouse: provided however that such surtax shall not be payable on cigarettes manufactured in or imported through the Union of South Africa which bear stamps (affixed in such manner as is prescribed by law or regulation of the Union) of a value equivalent to the duty or surtax payable thereon under



the Cigarette Excise and Surtax Act 1911 of the Union or any amendment thereof. The surtax payable under this section shall be levied, collected and paid by means of stamps affixed in the manner prescribed by regulation to the tin, box, packet, or other immediate container of the cigarettes, and shall be payable whether or not customs duty is leviable on the first importation of such cigarettes into Basutoland or when they are cleared from a bonded warehouse.

5. In the case of cigarettes held in stock at the taking effect of this Proclamation by any person who holds the same for purposes of sale, the duty or surtax shall be payable by that person by means of stamps affixed to the tin, box, packet, or other immediate container, as if he were the manufacturer or importer.

6. (1) No person shall engage in the manufacture of cigarettes for sale except on premises licensed for the purpose by the Resident Commissioner, and any person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding three hundred pounds, or, in default of payment, to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment, and all cigarettes found on premises not so licensed shall be forfeited.

(2) Every person whose premises are licensed for the manufacture of cigarettes for sale, shall pay for the licence annually the sum of one pound. The licence shall, when ever issued, expire on the thirty-first day of March next succeeding.

7. (1) From and after the taking effect of this Proclamation no person shall remove any cigarettes or permit the same to be removed, from his licensed premises unless—

- (a) they are securely enclosed in an unbroken tin, box, package, or other immediate container; and
- (b) the tin, box, package, or other immediate container of the cigarettes (herein after called a container) has been stamped with a stamp of a value equivalent to the duty payable on the contents of the container; and
- (c) the stamp has been affixed to every container in the manner prescribed by regulation,

and no person shall sell or expose for sale cigarettes except in unbroken containers.

(2) Any person who removes or permits to be removed from his licensed premises or sells or exposes for sale any cigarettes in respect whereof the provisions of sub-section (1) have not been wholly complied with, or who does not affix the stamp aforesaid to any container in the manner prescribed, shall be liable on conviction to the penalties mentioned in section *sa*.

(3) All cigarettes removed in contravention of this section or contained in containers insufficiently or improperly stamped shall be forfeited.

8. Any person who sells or attempts to sell, or has in his possession for the purpose of sale, whether by wholesale or retail, any cigarettes in respect of which any contravention of or non-compliance with this Proclamation has to his knowledge taken place, shall be liable on conviction to the penalties mentioned in section *sa* and all such

cigarettes shall be forfeited. Nothing in this section contained shall be construed as subjecting to penalties, or to the payment of the duty or surtax payable under this Proclamation, any person in respect of cigarettes which were exposed for sale in the Province of the Cape of Good Hope immediately prior to the taking effect of this Proclamation and which bear the stamp duty required by Act No. 12 of 1909 of that Province.

9. Any person who, for the purpose of stamping any container, uses or supplies, or offers to supply, any stamp other than a stamp supplied by the Government for the purpose, or any stamp so supplied but previously used, shall be liable on conviction to the penalties mentioned in section six, and all cigarettes stamped with any such unauthorized or previously used stamp shall be forfeited. Nothing in this section contained shall be deemed to exempt any person from any other penalty, civil or criminal, to which he may be liable under any other law in respect of any such act as is described in this section.

10. Every person engaged in the manufacture of cigarettes shall keep within Basutoland in the form prescribed by regulation, proper books or accounts of his transactions therein, and the same shall at all times be open for inspection by the Resident Commissioner or an officer deputed by him, who may seize the same if on reasonable grounds it appear that there has been any contravention of or non-compliance with this Proclamation.

Any person who fails to comply with the provisions of this section shall be liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

11. Any officer specially authorized thereto in writing by the Resident Commissioner may at all times enter and search any premises licensed under this Proclamation for the manufacture of cigarettes, or the premises of any person who sells cigarettes or who is suspected of manufacturing or selling cigarettes in contravention of or without complying with this Proclamation and may seize upon such premises any cigarettes or the containers thereof in respect of which a contravention or non-compliance with this Proclamation is suspected of having taken place. Any person who resists, hinders, or obstructs any such officer in the lawful exercise of his powers under this section shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

12. In the event of a contravention or non-compliance with this Proclamation by a company or a firm or partnership, any person having the management or apparent management of the premises or business in respect whereof the contravention or non-compliance took place, shall be liable to the penalties provided therefor.

13. In any prosecution for a contravention or failure to comply with any provision of this Proclamation relating to the payment of the proper amount of duty or surtax, the burden of proving that the cigarettes were not manufactured for sale, or not imported for consumption within Basutoland shall lie upon the accused.

14. The High Commissioner may from time to time make alter and repeal by notice in the *Gazette* regulations --

24834

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for a duty of excise on cigarettes made in Swaziland, and a corresponding surtax on cigarettes imported for consumption in Swaziland;

AND WHEREAS under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1900 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. This proclamation may be cited for all purposes as the "Cigarette Excise and Surtax (Swaziland) Proclamation 1911" and shall have force and take effect from the first day of July 1911.

2. In this proclamation unless inconsistent with the context-

"cigarettes" shall be taken to include all articles made of cut tobacco, rolled or enveloped in paper, leaf or other covering;

"duty" shall mean the duty of excise leviable and payable under this proclamation;

"imprisonment" shall mean imprisonment with or without hard labour as the Court which passes sentence may direct;

"net weight" shall mean the weight of tobacco, together with that of the paper covering and attached mouth-piece, of each individual cigarette;

"surtax" shall mean the tax payable under this Proclamation on the importation into Swaziland of cigarettes in addition to any customs duty payable on their first importation or when cleared from a bonded warehouse for home consumption and, for the purposes of any law relating to postal administration, shall be deemed to be customs duty;

"tobacco" shall include all substitutes therefor.

3. From and after the taking effect of this Proclamation there shall be levied, collected, and paid, for the benefit of the public revenue of Swaziland on all cigarettes manufactured in Swaziland, whether made from tobacco grown or produced in Swaziland or from tobacco imported into Swaziland, or from a mixture of Swaziland grown and imported tobaccos, the duty of excise as set forth in the Schedule to this Proclamation, and the duty shall be collected in the manner hereinafter prescribed.

4. A surtax as set forth in the said Schedule shall be levied, collected, and paid, for the benefit of the public revenue of Swaziland, on cigarettes entered for consumption within Swaziland, either on first importation or when cleared from a bonded warehouse: provided however



that such surtax shall not be payable on cigarettes manufactured in or imported through the Union of South Africa which bear stamps (affixed in such manner as is prescribed by law or regulation of the Union) of a value equivalent to the duty or surtax payable thereon under the Cigarette Excise and Surtax Act 1911 of the Union or any amendment thereof. The surtax payable under this section shall be levied, collected and paid by means of stamps affixed in the manner prescribed by regulation to the tin, box, packet, or other immediate container of the cigarettes, and shall be payable whether or not customs duty is leviable on the first importation of such cigarettes into Swaziland, or when they are cleared from a bonded warehouse.

5. In the case of cigarettes held in stock at the taking effect of this Proclamation by any person who holds the same for purposes of sale, the duty or surtax shall be payable by that person by means of stamps affixed to the tin, box, packet, or other immediate container, as if he were the manufacturer or importer.

6. (1) No person shall engage in the manufacture of cigarettes for sale except on premises licensed for the purpose by the Resident Commissioner, and any person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding three hundred pounds, or, in default of payment, to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment and all cigarettes found on premises not so licensed shall be forfeited.



(2) Every person whose premises are licensed for the manufacture of cigarettes for sale, shall pay for the licence annually the sum of one pound. The licence shall, whenever issued, expire on the thirty-first day of March next succeeding.

7.(1) From and after the taking effect of this Proclamation no person shall remove any cigarettes or permit the same to be removed from his licensed premises unless -

- (a) they are securely enclosed in an unbroken tin, box, package, or other immediate container; and
- (b) the tin, box, package, or other immediate container of the cigarettes (hereinafter called a container) has been stamped with a stamp of a value equivalent to the duty payable on the contents of the container; and
- (c) the stamp has been affixed to every container in the manner prescribed by regulation,

and no person shall sell or expose for sale cigarettes except in unbroken containers.

(2) Any person who removes or permits to be removed from his licensed premises or sells or exposes for sale any cigarettes in respect whereof the provisions of sub-section (1) have not been wholly complied with, or who does not affix the stamp aforesaid to any container in the manner prescribed, shall be liable on conviction to the penalties mentioned in section six.

(3) All cigarettes removed in contravention of this section or contained in containers insufficiently or improperly stamped shall be forfeited.

8. Any person who sells or attempts to sell, or has in his possession for the purpose of sale, whether by wholesale or retail, any cigarettes in respect of which any contravention of or non-compliance with this Proclamation has to his knowledge taken place, shall be liable on conviction to the penalties mentioned in section six and all such cigarettes shall be forfeited. Nothing in this section contained shall be construed as subjecting to penalties, or to the payment of the duty or surtax payable under this Proclamation, any person in respect of cigarettes which were exposed for sale in the Province of the Cape of Good Hope immediately prior to the taking effect of this Proclamation and which bear the stamp duty required by Act No. 12 of 1909 of that Province.

9. Any person who, for the purpose of stamping any container, uses or supplies, or offers to supply, any stamp other than a stamp supplied by the Government for the purpose, or any stamp so supplied but previously used, shall be liable on conviction to the penalties mentioned in section six, and all cigarettes stamped with any such unauthorized or previously used stamp shall be forfeited. Nothing in this section contained shall be deemed to exempt any person from any other penalty, civil or criminal, to which he may be liable under any other law in respect of any such act as is described in this section.

10. Every person engaged in the manufacture of cigarettes shall keep within Swaziland in the form prescribed by regulation, proper books or accounts of his transactions

- therein-

therein, and the same shall at all times be open for inspection by the Resident Commissioner or an officer deputed by him, who may seize the same if on reasonable grounds it appear that there has been any contravention of or non-compliance with this proclamation.

Any person who fails to comply with the provisions of this section shall be liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

11. Any officer specially authorized thereto in writing by the Resident Commissioner may at all times enter and search any premises licensed under this proclamation for the manufacture of cigarettes, or the premises of any person who sells cigarettes or who is suspected of manufacturing or selling cigarettes in contravention of or without complying with this proclamation and may seize upon such premises any cigarettes or the containers thereof in respect of which a contravention or non-compliance with this proclamation is suspected of having taken place. Any person who resists, hinders, or obstructs any such officer in the lawful exercise of his powers under this section shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

12. In the event of a contravention or non-compliance with this proclamation by a company or a firm or partnership, any person having the management or apparent management of the premises or business in respect whereof the contravention or non-compliance took place, shall be liable to the penalties provided therefor.

13. In any prosecution for a contravention or failure to comply with any provision of this proclamation relating to the payment of the proper amount of duty or surtax, the burden of proving that the cigarettes were not manufactured for sale, or not imported for consumption within Swaziland, shall lie upon the accused.

14. The High Commissioner may from time to time make alter and repeal by notice in the Gazette regulations -

- (a) exempting from the provisions of this Proclamation cigarettes entered for removal on first importation or from a bonded warehouse, to places outside Swaziland;
- (b) exempting from the duty, or granting a rebate of the duty, on cigarettes made in Swaziland when entered for removal to places outside Swaziland;
- (c) remitting the excise duty or surtax on cigarettes destroyed under the supervision of an officer appointed thereto by the Resident Commissioner;
- (d) prescribing the form of licence under this Proclamation and the form of stamp to be affixed, and the manner of affixing such stamp, to containers of cigarettes;
- (e) prescribing the form of books and accounts to be kept by persons engaged in the manufacture of cigarettes;
- (f) providing for the sale under such safeguards as may be necessary for the protection of the revenue, of the stamps required to be affixed to containers of cigarettes.

and generally for the better carrying out of the objects and purposes of this proclamation.



15. Any person who contravenes or fails to comply with any provision of this proclamation for the contravention thereof or the failure to comply therewith no penalty has been specially provided, or of any regulation, or a condition of any notice or regulation under this proclamation, shall be liable to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months.

G O D   S A V E   T H E   K I N G !

GIVEN under my hand and seal at  
this *twenty-ninth* day of *June*      One thousand  
Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

By *[Signature]* of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.



SCHEDULE

- (a) On all cigarettes manufactured in Swaziland, whether made from tobacco grown or produced therein, or from a mixture of Swaziland grown and imported tobaccos, an excise duty for every one-half ounce net weight or fraction thereof ..... one half-penny.
- (b) On all cigarettes imported into Swaziland and delivered for consumption therein a surtax (in addition to the duty payable under the customs laws) for every one-half ounce net weight or fraction thereof ..... one half-penny.

No. 1811.

C O  
24384  
Recd  
29 JUL 11

PROCLAMATION

By His Excellency the High Commissioner.  
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WHEREAS it is expedient to provide for a duty of excise on cigarettes made in the Bechuanaland Protectorate (hereinafter called 'the Protectorate' and a corresponding surtax on cigarettes imported for consumption in the Protectorate

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. This Proclamation may be cited for all purposes as the "Cigarette Excise and Surtax (Bechuanaland Protectorate) Proclamation 1911" and shall have force and take effect from the first day of July 1911.

2. In this Proclamation unless inconsistent with the context -

"cigarettes" shall be taken to include all articles made of cut tobacco, rolled or enveloped in paper, leaf, or other covering;

"duty" shall mean the duty of excise leviable and payable under this Proclamation;

"imprisonment" shall mean imprisonment with or without hard labour as the court which passes sentence may direct;

- "net weight" +

"net weight" shall mean the weight of tobacco together with that of the paper covering and attached mouth-piece of each individual cigarette;

"surtax" shall mean the tax payable under this Proclamation on the importation into the Protectorate of cigarettes in addition to any customs duty payable on their first importation or when cleared from a bonded warehouse for home consumption and for the purposes of any law relating to postal administration shall be deemed to be customs duty;

"tobacco" shall include all substitutes therefor;

3. From and after the taking effect of this Proclamation there shall be levied, collected and paid for the benefit of the public revenue of the Protectorate on all cigarettes manufactured in the Protectorate, whether made from tobacco grown or produced in the Protectorate, or from tobacco imported into the Protectorate or from a mixture of Protectorate grown and imported tobaccos, the duty of excise as set forth in the Schedule to this Proclamation and the duty shall be collected in the manner hereinafter prescribed.

4. A surtax as set forth in the said Schedule shall be levied, collected and paid, for the benefit of the public revenue of the Protectorate, on cigarettes entered for consumption within the Protectorate either on first importation or when cleared from a bonded warehouse: provided however that such surtax shall not be payable on cigarettes manufactured in or imported through the Union of South Africa which bear stamps (affixed in such manner as is prescribed by law or regulation of the Union) of a value equivalent to the duty

of surtax payable thereon under the Cigarette Excise and Surtax Act 1911 or the Union or any amendment thereof. The surtax payable under this section shall be levied, collected and paid by means of stamps affixed in the manner prescribed by regulation to the tin, box, packet, or the immediate container of the cigarettes, and shall be payable whether or not customs duty is leviable on the first importation of such cigarettes into the United Kingdom, or when they are cleared from a bonded warehouse.

5. In the case of cigarettes held in stock at the taking effect of this Proclamation by any person who holds the same for purposes of sale, the duty or surtax shall be payable by that person by means of stamps affixed to the tin, box, packet, or other immediate container, as if he were the manufacturer or importer.

6. (1) No person shall engage in the manufacture of cigarettes for sale except on premises licensed for the purpose by the Resident Commissioner, and any person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding three hundred pounds, or, in default of payment, to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment, and all cigarettes found on premises not so licensed shall be forfeited.

(2) Every person whose premises are licensed for the manufacture of cigarettes for sale, shall pay for the licence annually the sum of one pound. The licence shall, whenever issued, expire on the thirty-first day of March next succeeding.

7. (1) From and after the taking effect of this Proclamation no person shall remove any cigarettes or permit the same to be removed, from his licensed premises unless -

- (a) they are securely enclosed in an unbroken tin, box, package, or other immediate container; and
  - (b) the tin, box, package, or other immediate container of the cigarettes (hereinafter called a container), has been stamped with a stamp of a value equivalent to the duty payable on the contents of the container; and
  - (c) the stamp has been affixed to every container in the manner prescribed by regulation,
- and no person shall sell or expose for sale cigarettes except in unbroken containers.

(2) Any person who removes or permits to be removed from his licensed premises or sells or exposes for sale any cigarettes in respect whereof the provisions of sub-section (1) have not been wholly complied with, or does not affix the stamp aforesaid to any container in the manner prescribed, shall be liable on conviction to the penalties mentioned in section six.

(3) All cigarettes removed in contravention of this section or contained in containers insufficiently or improperly stamped shall be forfeited.

8. Any person who sells or attempts to sell, or has in his possession for the purpose of sale, whether by wholesale or retail, any cigarettes in respect of which any contravention of or non-compliance with this Proclamation has to his knowledge taken place, shall be liable on conviction to the penalties mentioned in section six and all such cigarettes shall be forfeited. Nothing in this section contained shall be construed as subjecting to penalties, or to the payment of the



duty or surtax payable under this Proclamation, any person in respect of cigarettes which were exposed for sale in the Province of the Cape of Good Hope immediately prior to the taking effect of this Proclamation and which bear the stamp duty required by Act No. 12 of 1919 of that Province.

9. Any person who, for the purpose of stamping any container, uses or supplies, or offers to supply, any stamp other than a stamp supplied by the Government for the purpose, or any stamp so supplied but previously used, shall be liable on conviction to the penalties mentioned in section six, and all cigarettes stamped with any such unauthorized or previously used stamp shall be forfeited. Nothing in this section contained shall be deemed to exempt any person from any other penalty, civil or criminal, to which he may be liable under any other law in respect of any such act as is described in this section.

10. Every person engaged in the manufacture of cigarettes shall keep within the Protectorate in the form prescribed by regulation, proper books or accounts of his transactions therein, and the same shall at all times be open for inspection by the Resident Commissioner or an officer deputed by him, who may seize the same if on reasonable grounds it appears that there has been any contravention of or non-compliance with this Proclamation.

Any person who fails to comply with the provisions of this section shall be liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

11. Any officer specially authorized thereto in writing by the Resident Commissioner may at all times enter and search any premises licensed under this Proclamation for the

manufacture of cigarettes, or the premises of any person who sells cigarettes or who is suspected of manufacturing or selling cigarettes in contravention of or without complying with this Proclamation and may seize upon such premises any cigarettes or the contents thereof in respect of which a contravention or non-compliance with this Proclamation is suspected of having taken place. Any person who resists, hinders, or obstructs any such officer in the lawful exercise of his powers under this section shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

12. In the event of a contravention or non-compliance with this Proclamation by a company or a firm or partnership, any person having the management or apparent management of the business or businesses in respect whereof the contravention or non-compliance took place, shall be liable to the penalties provided therefore.

13. In any prosecution for a contravention or failure to comply with any provision of this Proclamation relating to the payment of the proper amount of duty or excise tax, the burden of proving that the cigarettes were not manufactured for sale, or not imported for consumption within the Protectorate, shall lie upon the accused.

14. The High Commissioner may from time to time make alterations and amendments by notice in the Gazette Regulations -

- (a) exempting from the provisions of this Proclamation cigarettes entered for removal on first importation from a bonded warehouse, to places outside the Protectorate;

- (b) exempting from the duty, or granting a rebate of the duty, on cigarettes made in the Protectorate when entered for export to places outside the Protectorate;
  - (c) remitting the excise duty or surtax on cigarettes destroyed under the supervision of an officer appointed thereto by the Resident Commissioner;
  - (d) prescribing the form of licence under this Proclamation and the form of stamp to be affixed, and the manner of affixing such stamp, to containers of cigarettes;
  - (e) prescribing the form of books and accounts to be kept by persons engaged in the manufacture of cigarettes;
  - (f) providing for the sale under such safeguards as may be necessary for the protection of the revenue, of the stamps required to be affixed to containers of cigarettes,
- and generally for the better carrying out of the objects and purposes of this Proclamation.

15. Any person who contravenes or fails to comply with any provision of this Proclamation for the contravention whereof or the failure to comply where-with no penalty has been specially provided, or of any regulation, or a condition of any licence or regulation, under this Proclamation, shall be liable to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months.

GOD SAVE THE KING.

- Given -

Given under my Hand and Seal at *London* this  
day of *June* one thousand nine hundred and  
eleven.



*John Lubbock*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*John Lubbock*

Imperial Secretary.

SCHEDULE

- (a) On all cigarettes manufactured in the Protectorate, whether made from tobacco grown or produced therein or from tobacco imported therein, or from a mixture of Protectorate grown and imported tobacco an excise duty of every one-half ounce net weight or fraction thereof .. .. . One halfpenny.
- (b) On all cigarettes imported into the Protectorate and delivered for consumption therein a tax (in addition to the duty payable under the Customs laws) of every one-half ounce net weight or fraction thereof .. .. . One halfpenny.



NOTIFICATION

By His Excellency the High Commissioner.

24893

Whereas by the Barotsi Land North Western Rhodesia Order in Council 1899 the High Commissioner is empowered to provide for the peace order and good government of all persons within the limits of the said Order including the prohibition and punishment of acts tending to disturb the public peace:

And whereas it is expedient to make in the provision relative to the peace order and good government of the Territory within the limits of the said Order in Council (hereinafter referred to as the Territory).

Now known under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

1. The Administrator on its being shown to his satisfaction that there are reasonable grounds for believing that any person for the time being living in the Territory is a danger to the peace thereof may with the approval of the High Commissioner issue an order under his hand directing such person to leave the Territory within such time after the date of the order on such person as may be specified therein and if on the expiration of such period and during the continuance of such order such person shall be found within the Territory he shall be guilty of an offence and

- shall -

shall be liable on conviction to imprisonment with or without hard labour for a period of not less than one month and not exceeding six months and with or without a fine not exceeding one hundred pounds and in default of payment to a further term of imprisonment for a period not exceeding six months.

2. The Administrator on its being shown to his satisfaction that there are reasonable grounds for believing that any person in the time being living in the Territory is dangerous to the peace thereof may with the approval of the High Commissioner issue an order under his hand directing such person to confine himself within such limits within the Territory and for such period as may in such order be specified or during His Majesty's pleasure. If any such person shall neglect or refuse to comply with the terms of any such order or shall during the period therein mentioned and during its continuance depart from the limits therein specified without the written permission of the Administrator or shall while within such limits do any further act which is a charge to the peace of the Territory he shall be guilty of an offence and shall be liable on conviction to the penalties mentioned in Section one hereof.

3. The Administrator may with the approval of the High Commissioner issue an order for the apprehension and removal from the Territory to any place without its limits of any person whom he has reasonable grounds for believing to be a danger to the peace thereof and whether or not an order shall have been issued under Section one or two of this Regulation in respect of such person; provided that the person shall be removed from the Territory under the powers of this Section unless or until there shall be

provision in the territory to which he is to be removed and in the territory through which he may pass in course of removal for his detention in lawful custody therein. Any such person or persons who shall be found within the Territory without the written permission of the Administrator after having been removed therefrom shall be liable on conviction to the penalties mentioned in Section one hereof and at the expiration of any term of imprisonment imposed on such conviction to be again removed from the Territory in manner aforesaid.

4. Any order issued under the provisions of this Proclamation may from time to time with the approval of the High Commissioner be revoked, renewed or varied as to the terms thereof by the Administrator.

5. It shall be lawful for any police constable or officer to arrest without warrant any person in respect of whom an order has been issued under this Proclamation if such person shall be reasonably suspected of committing a contravention of such order or if such person shall be found within the Territory after having been removed therefrom under the powers of Section three without the written permission of the Administrator.

6. Any person aiding or attempting to aid any person to do any act which shall amount to a contravention of this Proclamation or who shall aid or attempt to aid in the escape from custody or confinement of any person subjected thereto under this Proclamation shall be guilty of an offence and shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding two years.

7. This Proclamation shall have force and take effect  
from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my hand and seal at *London* this  
day of *June* the thousand nine hundred and  
eleven.



High Commissioner.

By command of His Excellency  
the High Commissioner

*H. McArthur*

Imperial Secretary.



PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS the Deeds Proclamation Amendment Ordinance 1903 (No. 65 of 1903) of the Transvaal has been applied *mutatis mutandis* to the territory of Swaziland and is in force in the said territory,

AND WHEREAS it is desirable to amend the said Ordinance as regards its application to Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare and proclaim and make known as follows:-

1. Section four of the said Deeds Proclamation Amendment Ordinance 1903 as applied to Swaziland shall be and is hereby amended by the insertion after the words "and provided further that" where such words first occur in the said section of the following words "save in the case of a portion or share in a portion of any property held under a concession".

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.



GOD SAVE THE KING.

Given under my Hand and Seal at *London*  
this *fourth* day of *July* One thousand Nine  
hundred and Eleven.



*W. H. Murray*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*W. H. Murray*  
Imperial Secretary.

No. 11 of 1911.

P R O C L A M A T I O N

By His Excellency the High Commissioner.

WHEREAS by the Bechuanaland Protectorate Appropriation Proclamation 1911 (hereinafter referred to as "the said Proclamation") the public revenue of the Bechuanaland Protectorate as defined by section one of the said Proclamation was charged towards the service of the year ended on the 31st day of March 1911 with a sum of £70,875 (seventy thousand eight hundred and seventy-five pounds) to be applied and expended in the manner set forth in the Schedule to the said Proclamation:

AND WHEREAS the sums of £6,180 (six thousand and eighty pounds) and £1,600 (one thousand six hundred pounds) granted on account of heads of service No.8 Miscellaneous and No.9 Public Works recurrent respectively have proved insufficient and the further sums set forth in the Schedule hereto annexed have been appropriated and expended by the Resident Commissioner of the Bechuanaland Protectorate under the said heads of service:

AND WHEREAS it is necessary to indemnify the Resident Commissioner and all other persons concerned in the appropriation and expenditure of such additional sums:

NOW KNOW ALL MEN under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The Resident Commissioner and all other persons concerned in the appropriation or expenditure of the sums specified in the said schedule shall be and are hereby indemnified for and on account of the same as fully and effectually as if the said expenditure had been authorised by law.

2. The public revenue of the Bechuanaland Protectorate as defined by section one of the said Proclamation is hereby charged towards the service of the year ending the 31st day of March 1911 with the sum of £498. 7. 9. (four hundred and ninety eight pounds seven shillings and nine pence) to meet the expenditure specified in the said Schedule.

3. This Proclamation may be cited as the Bechuanaland Protectorate Financial Indemnity and Appropriation Proclamation 1911 and shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

- Given -

Given under my Hand and Seal at *London*  
this *twelfth* day of *July* One thousand  
Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

SCHEDULE.

No.	Head of Service.	Amount.
8.	Miscellaneous	£164. 19. 3.
9.	Public works recurrent	383. 17. 6



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62061

1953 OCT 11

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend Proclamations Nos. 23 of 1911 and 24 of 1911 with reference to the compensation payable to owners of cattle in the eradication of the disease known as East Coast Fever:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1906 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section five of Proclamation No. 23 of 1911, shall be and is hereby amended:-

(a) by the insertion after the words "shall be destroyed" in line five thereof of the words "or shall die from East Coast Fever after control of such cattle shall have been taken by the Swaziland Administration";

(b) by the addition at the end thereof of the following words "For the purposes of this section control of any cattle shall be deemed to have been taken by the Swaziland Administration as soon as the cattle have been inspected by the Government Veterinary Surgeon or any Stock Inspector provided that no such control shall be deemed to have been taken if the disease from which the cattle are alleged to

be suffering shall on diagnosis be found to be other than East Coast Fever Disease ".

2. Section three of Proclamation No. 24 shall be and is hereby amended by the insertion after the words "(including the payment of compensation for cattle destroyed" in lines six and seven thereof of the words "or for cattle dying from East Coast Fever after control of such cattle shall have been taken by the Swaziland Administration in manner defined by Section five of Proclamation No. 23 of 1911 as amended by Section one of this Proclamation)".

3. This Proclamation shall have force and take effect as from the twenty-seventh day of June, 1911.

GOD SAVE THE KING!

Given under my Hand and Seal at *Bulawayo*  
this *5<sup>th</sup>* day of *September* One thousand  
Nine hundred and Eleven.



*Signature*

High Commissioner.

By Command of His Excellency

The High Commissioner.

*Lt H. G. ...*

Imperial Secretary.

No. 33.1191

35633

REC'D  
NOV 4 1911

# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to provide for the payment of a pension to William Scott, Esquire, who has lately held the Office of Additional Special Commissioner in Swaziland to which he was appointed under Section one of Proclamation No. 37 of 1909 in respect of his services in Swaziland as Additional Special Commissioner and in other capacities;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. A pension at the rate of Two hundred and forty pounds sterling per annum shall be and the same is hereby granted to the said William Scott as from the first day of October, 1911, in respect of his services in Swaziland as Secretary to the Swaziland Concessions Commission, and subsequently as Additional Special Commissioner appointed under Section one of Proclamation

No. 37 of 1909 and in other capacities provided however that if the said William Scott shall accept any other appointment under the Crown he shall not during the tenure of such appointment be entitled to receive any portion of the said pension which added to the salary and emoluments of such appointment and to any other pension from public funds receivable by him would cause his total receipts from public funds to exceed the amount of the salary and emoluments of which he was in receipt as Additional Special Commissioner at the time when he ceased to hold that office.

2. The said pension shall be payable out of the revenue of Swaziland.

3. Sections twenty ~~twenty-one~~ and twenty-two of the High Commissioner's Proclamation No. 9 of 1908, which provides for the granting of pensions and other allowances to persons employed in the service of the Government of Swaziland shall apply to the said pension as if the same were a pension granted under the provisions of the said Proclamation, and the said William Scott shall further be subject to the provisions of Section fourteen of the said Proclamation in the same manner as if the said pension were a pension so granted.

4. The said pension shall be in substitution for any pension which might be claimable by the said William Scott under the provisions of the said Proclamation No. 9 of 1908.

5. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING !

GIVEN under my Hand and Seal at *Pretoria*  
this *Second* day of *October* One thousand  
Nine hundred and Eleven.



*[Signature]*  
High Commissioner.

By Command of His Excellency

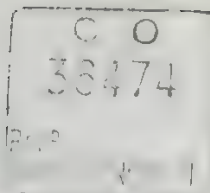
The High Commissioner.

*[Signature]*

Imperial Secretary.



No. 34 of 1911.



# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
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WHEREAS it is expedient to establish  
Public Holidays within the Bechuanaland Protectorate,

NOW KNOW YE under and by virtue of the  
powers in me vested I do hereby declare proclaim and  
make known as follows :

1. The laws mentioned in the First Schedule to  
this Proclamation shall be and are hereby repealed as  
regards their application to the Bechuanaland Protec-  
torate to the extent set out in the third column of  
that Schedule, together with so much of any other law  
as may be repugnant to or inconsistent with the pro-  
visions of this Proclamation.

2. The days named in the Second Schedule to this  
Proclamation shall be public holidays within the  
Bechuanaland Protectorate: Provided that -

- (a) when any of the said days falls on a Sunday  
the following Monday shall be observed as a  
public holiday; and
- (b) when Boxing Day falls on a Monday the following  
Tuesday shall be observed as a public holiday.

3. The High Commissioner may from time to time  
by notice in the Gazette appoint any day not named in the  
Second Schedule to this Proclamation, but specified in  
that notice, to be observed as a public holiday within

within the Bechuanaland Protectorate.

4. Any reference in any law in force in the Bechuanaland Protectorate to public holidays shall be deemed to be a reference to public holidays as named by or appointed under the provisions of this Proclamation and no other days.

5. Sunday and any day named in the Second Schedule to or appointed under the provisions of this Proclamation as a public holiday shall be deemed to be a non-business day within the meaning of any law in force in the Protectorate relating to bills of exchange or promissory notes, anything to the contrary in any such law notwithstanding.

6. This Proclamation may be cited for all purposes as the Public Holidays (Bechuanaland Protectorate) Proclamation 1911, and shall have force and take effect from the date of its publication in the Gazette.

FOR GOD SAVE THE KING !

GIVEN under my Hand and Seal at Pretoria  
this *twelfth* day of *October* One thousand  
Nine hundred and Eleven.



*[Signature]*

High Commissioner.

Command of His Excellency

The High Commissioner.

*[Signature]*

Imperial Secretary.

FIRST SCHEDULE

Laws Repealed

No. and Year of Law.	Title or Subject of Law.	Extent of Repeal
Act. No. 5 of 1856 of the Cape of Good Hope.	To declare the law in relation to Bills of Exchange and Promissory Notes becoming payable upon holidays.	Section one, in so far as it relates to Bills of Exchange and Promis- sory Notes becoming due and payable on the " Queen's Birthday", and declares that day a holi- day for the purpose of such Bills or Notes.
Act. No. 24 of 1889 of the Cape of Good Hope.	Public Holiday Act 1889.	The whole.
Act No. 19 of 1893 of the Cape of Good Hope.	Bills of Exchange Act 1893 (applied to the Bechuana- land Protectorate by High Commissioner's Proclamation No. 53 of 1910)	Paragraph (e) of defini- tion of non-business day in section one, in so far as it defines "Queen's Birthday" as a non- business day.

SECOND SCHEDULE

Public Holidays.

New Year's Day  
Good Friday  
Easter Monday  
Whit Monday  
Ascension Day  
Victoria Day (24th day of May)  
King's Birthday (3rd day of June)  
The first Monday in October  
Christmas Day  
Boxing Day (26th day of December)

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No. 35 of 1911.]

### PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to make a Rule of Court for regulating the service on persons in Basutoland of any process or citation in any civil or commercial matter pending before a Court or tribunal of a foreign country in accordance with letters of request for such service;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The Rule of Court set forth in the Schedule to this Proclamation shall be of force in Basutoland with respect to the service on persons in Basutoland of any process or citation in any civil or commercial matter pending before a Court or tribunal of a foreign country in accordance with letters of request for such service.

2. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-fourth day of October One thousand Nine hundred and Eleven.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

R. H. GRIFFIN,  
Acting Imperial Secretary.

### SCHEDULE.

RULE OF COURT FOR REGULATING THE SERVICE OF FOREIGN PROCESS IN ACCORDANCE WITH A LETTER OF REQUEST.

1. Where in any civil or commercial matter pending before a Court or tribunal of a foreign country a letter of request from such Court or tribunal for service on any person in Basutoland of any process or citation in such matter is transmitted to the Court of the Resident Commissioner in Basutoland by His Majesty's Secretary of State for the Colonies, with an intimation that it is desirable that effect should be given to the same, the following procedure shall be adopted:

(1) The Letter of Request for service shall be accompanied by a translation thereof in the English language, and by two copies of the process or citation to be served, and two copies thereof in the English language.

(2) Service of the process or citation shall be effected by the Messenger of the Court of the Resident Commissioner or his deputy.

(3) Such service shall be effected either by delivering to the person to be served one copy of the process to be served and one copy of the translation thereof or by leaving such copies for him at his dwelling-house with some one of his household, in accordance with the Rules and practice of the Court of the Resident Commissioner regulating service of process.

for B...  
V...  
J...  
V...

(4) After service has been effected the process server shall return to the Master of Court one copy of the process, together with the evidence of service by affidavit of the person effecting the service verified by notarial certificate, and particulars of charges for the cost of effecting such service.

(5) The particulars of charges for the cost of effecting service shall be submitted to the Master of Court, who shall certify the correctness of the charges, or such other amount as shall be properly payable for the cost of effecting service. A copy of such charges and certificate shall be forwarded to the Government Secretary.

(6) The Master of Court shall transmit to His Majesty's Secretary of State for the Colonies the Letter of Request for service received from the foreign country, together with the evidence of service, with a certificate appended thereto duly sealed with the seal of the Court of the Resident Commissioner for use out of the jurisdiction. Such certificate shall be in the form set out below.

CERTIFICATE OF SERVICE OF FOREIGN PROCESS.

I, ....., Master of Court of Basutoland, hereby certify that the documents annexed hereto are as follows:

- (1) The original letter of request for service of process received from the Court or tribunal at ..... in the ..... of ..... in the matter of....., and;
- (2) The process received with such letter of request, and;
- (3) The evidence of service upon..... the person named in such letter of request, together with the verification of a notary public.

And I certify that such service so proved, and the proof thereof, are such as are required by the law and practice of the Court of the Resident Commissioner regulating the service of legal process of the said Court in Basutoland, and the proof thereof.

And I certify that the cost of effecting such service as duly certified by me amounts to the sum of £ .....

Dated this ..... day of ..... 19 .....

Printed and Published by the Government Printer, Pretoria.



No. 34 of 1911

37215

RECEIVED

# PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is desirable to require that persons engaged in buying or acquiring cattle in the Bechuanaland Protectorate for the purpose of export therefrom should take out licenses and deposit such security as is hereinafter mentioned:

NOW KNOW YE that under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. No person shall purchase or acquire by exchange or barter any cattle within the Bechuanaland Protectorate for the purpose of export therefrom unless he is the holder of a current license authorising him to do so. Every such license shall be for a period not exceeding one year and shall expire on the 31st day of December in the year for which it is granted and the amount payable for every such license shall be the sum of five pounds sterling; provided that for licenses issued after the 30th day of June in any year one half only of such amount shall be payable.

2. Every applicant for a license under this Proclamation shall upon first obtaining such license either deposit with the Resident Commissioner or other authorised officer issuing the same the sum of one hundred pounds sterling or find security to the like amount to the satisfaction of the Resident Commissioner or other authorised officer and shall also fix a domicilium citandi et executendi within the Territory.

3. Such deposit or other security shall remain and be kept up to the full value of one hundred pounds as long as the person making or finding the same continues to be licensed under this Proclamation and if it shall at any time fall short of this value and the holder of the license shall neglect or refuse to make up the deficiency it shall be lawful for the Resident Commissioner to cancel such license.

4. Any deposit or security made or found under this Proclamation may be taken in execution in whole or in part for the purpose of satisfying judgment of any competent Court within the Bechuanaland Protectorate whereby the person who made such deposits or found such security shall be required to pay any sum whether by way of damages costs or otherwise to any person domiciled within the said Protectorate.

5. In case of cancellation of a license or in case a license shall not be renewed upon the expiration thereof the deposit or other security made or found

in connection therewith in so far as the same has not been appropriated under the preceding section shall three months after the cancellation or expiration of such license be delivered back by the Resident Commissioner or other authorized officer upon due application being made therefor.

6. Every holder of a license issued under this Proclamation may during the currency of such license employ one or more persons to purchase or acquire cattle on his behalf or to induce other persons to sell or dispose of cattle to him. No such person shall be employed unless the license holder has made application for and has obtained from the Resident Commissioner or other authorized officer a permit authorizing his employment. Every such permit shall be for a period not exceeding one year and shall expire on the 31st day of December in the year for which it is granted and the amount payable for every such permit shall be twenty shillings; provided that for permits issued after the 30th of June in any year one half only of such amount shall be payable. Any such permit shall remain available and of effect only so long as the license held by the person at whose request such permit is issued remains in force.

7. The issue or renewal of any license or permit may be refused by the Resident Commissioner or any officer authorized to issue licenses or permits without any reason being given for such refusal.

8. Licenses or permits may be issued subject to such conditions as to the local limits within which cattle may be purchased or acquired as the Resident Commissioner may impose.

9. No license or permit issued under this Proclamation shall be transferable.

10. Any person who shall whether on his own behalf or on ~ behalf of any other person purchase or acquire by barter or exchange any cattle within the Bechuanaland Protectorate or shall induce any person to dispose of cattle within the Bechuanaland Protectorate to another person, for the purpose of export therefrom without being authorised thereto by a license or permit issued under this proclamation shall be guilty of an offence against this Proclamation and shall on conviction be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

11. Any person who is the holder of a trading license such as is mentioned in Section thirty-three of the High Commissioner's Proclamation of the 10th of June 1891 authorising him to trade within the Bechuanaland Protectorate shall for all the purposes of this Proclamation be deemed to be the holder of a license issued thereunder provided however that such person shall not be required to make any deposit or find any security under the provisions of this Proclamation.

12. In any prosecution for an offence against this Proclamation

(1) any cattle proved to have been purchased or acquired by barter or exchange within the Bechuanaland Protectorate by any person shall be deemed to have been purchased or acquired by such person for the purpose of export therefrom unless and until the contrary is proved;

(2) any person required by this Proclamation to have any license or permit shall be deemed to be without such license or permit unless he shall produce the same to the Court or give other satisfactory proof of possessing the same.

13. This Proclamation may be cited for all purposes as the Cattle Purchase for Export (Bechuanaland Protectorate) Proclamation 1911 and shall have force and effect from the *first* day of *January* 1912

G O D S A V E T H E K I N G !

Given under my hand and seal at *Pretoria*  
this *twenty-fifth* day of *October* One thousand  
*nine hundred and eleven.*



*A. A. M. M. M.*

High Commissioner  
and of His Excellency  
The High Commissioner.

*A. A. M. M. M.*

*A. A. M. M. M.*

Imperial Secretary.



ACKNOWLEDGED

No. 37 of 1911.]

### PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS it is expedient to amend the law in force in Basutoland with regard to the payment of interest on moneys in the Guardian's Fund;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Sections *twenty-eight* and *twenty-nine* of Ordinance No. 105 of 1833 of the Cape of Good Hope, and section *three* of the Guardian's Fund Act 1874 of the Cape of Good Hope shall be and are hereby repealed as regards their application to Basutoland.

2. No interest shall be payable on any moneys in the Guardian's Fund Basutoland other than moneys received by the Master of Court for account of any minor or lunatic.

3. Interest shall be allowed on the principal of every sum of money received by the Master of Court Basutoland for account of any minor or lunatic from the first day of the month after the money has been so received and until the amount becomes claimable by law.

4. The rate of interest for the purposes of the preceding section shall be three and one half per cent. per annum or such other rate as the High Commissioner may from time to time determine by notice in the *Gazette*.

5. This Proclamation may be cited for all purposes as the "Guardian's Fund Basutoland Proclamation 1911" and shall have force and take effect as from the 1st day of July 1911.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this twenty-seventh day of October One thousand Nine hundred and Eleven.

GLADSTONE,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

R. H. GRIFFIN,  
Acting Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

ACKNOWLEDGED.

No. 38 OF 1911.]

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision out of the public revenue or other funds of Basutoland for the service of the nine months ending the thirty-first day of March, 1912;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue or other funds of Basutoland is hereby charged towards the service of the nine months ending the thirty-first day of March 1912 with a sum of £117,003 (one hundred and seventeen thousand and three pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the estimates of the expenditure of Basutoland for the nine months ending the thirty-first day of March 1912 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Basutoland Appropriation 1911-12 Proclamation 1911 and shall have force and take effect from the first day of July 1911.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-fourth day of October One thousand Nine hundred and Eleven.

GLADSTONE,  
High Commissioner.

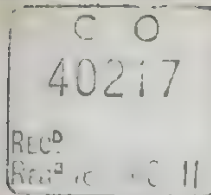
By Command of His Excellency  
the High Commissioner.

R. H. GRIFFIN,  
Acting Imperial Secretary.

### SCHEDULE.

No.	Head of Service.	Amount.
1.	Establishments ... ..	£11,172
2.	Police ... ..	15,168
3.	Post Office ... ..	3,400
4.	Allowances to Chiefs and Headmen	7,000
5.	Medical Expenses ... ..	500
6.	Office Contingencies ... ..	900
7.	Revenue Services ... ..	150
8.	Administration of Justice ... ..	2,460
9.	Public Works ... ..	35,033
10.	Hospitals ... ..	8,155
11.	Education ... ..	10,139
12.	Rewards for Special Services ... ..	100
13.	Audit ... ..	275
14.	Miscellaneous ... ..	1,900
15.	Agriculture ... ..	10,306
16.	National Council ... ..	1,000
17.	Pensions ... ..	1,695
		£109,353
Capital Expenditure:		
	Public Works ... ..	6,100
	Purchase of Live Stock ... ..	1,550
		£117,003

(Printed by the Government Printer, Pretoria.)



No. 39 of 1911

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

-----

WHEREAS it is expedient to make provision for the protection of Bushman relics and ancient ruins within Swaziland;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. In this Proclamation:

"Bushman relic" shall mean any drawing or painting on stone or petroglyph of the kind commonly known or believed to have been executed by the South African Bushmen or other aboriginals, and shall include any of the anthropological contents of the graves, caves, rock shelters, middens or shell mounds of such Bushmen or other aboriginals.

"Ancient ruin" shall mean any building or remains of a building constructed either of stones packed loosely or otherwise which is known or is believed to have been erected by the people who preceded the Swazi tribe in occupation of the country, or any material which has been used in the construction of such a building.

2. (1) No person shall remove, cause or allow to be removed from Swaziland any Bushman relic or any ancient ruin or portion thereof without first having obtained from the Resident Commissioner a written permit so to do.

(2) Any person desiring to remove from Swaziland any Bushman relic or any Ancient ruin or portion thereof may make application to the Resident Commissioner for such a permit.

(3) Every such application shall be accompanied by a drawing, photograph or tracing of the relic, or ancient ruin or portion thereof to be removed and shall state the exact locality in which the relic or ancient ruin is situated and the place or purposes for which the relic or ancient ruin or portion thereof is destined when removed.

3. Any person who contravenes the provisions of the last preceding section or who makes any false statement, or transmits any fictitious drawing, on an application for a permit thereunder, or who knowingly injures, defaces, or destroys any Bushman relic or ancient ruin situated in Swaziland, shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

4. The High Commissioner may make regulations for the better carrying out of the objects and purposes of this Proclamation.

5. This Proclamation may be cited for all purposes as: The Bushman Relics and Ancient Ruins Protection

(3)

(Swaziland) Proclamation 1911 and shall take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this  
18<sup>th</sup> day of November One thousand Nine hundred  
and Eleven.



HIGH COMMISSIONER.

By Command of His Excellency  
the High Commissioner.

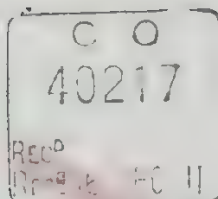


Acting Imperial Secretary.





No. 20 of 1911



PROCLAMATION  
BY HIS EXCELLENCY THE HIGH COMMISSIONER.

-----

WHEREAS it is expedient to make provision for the protection of Bushman relics and ancient ruins within the Bechuanaland Protectorate;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. In this Proclamation:

"Bushman relic" shall mean any drawing or painting on stone or petroglyph of the kind commonly known or believed to have been executed by the South African Bushmen or other aboriginals, and shall include any of the anthropological contents of the graves, caves, rock shelters, middens or shell mounds of such Bushmen or other aboriginals.

"Ancient ruin" shall mean any building or remains of a building constructed either of stones packed loosely or otherwise which is known or is believed to have been erected by the people who preceded the Bechuana tribes in occupation of the country, or any material which has been used in the construction of such a building.

(2)

2. (1) No person shall remove, cause or allow to be removed from the Bechuanaland Protectorate any Bushman relic or any ancient ruin or portion thereof without first having obtained from the Resident Commissioner a written permit so to do.

(2) Any person desiring to remove from the Bechuanaland Protectorate any Bushman relic or any Ancient ruin or portion thereof may make application to the Resident Commissioner for such a permit.

(3) Every such application shall be accompanied by a drawing, photograph or tracing of the relic, or ancient ruin or portion thereof to be removed and shall state the exact locality in which the relic or ancient ruin is situated and the place or purposes for which the relic or ancient ruin or portion thereof is destined when removed.

3. Any person who contravenes the provisions of the last preceding section or who makes any false statement, or transmits any fictitious drawing, on an application for a permit thereunder, or who knowingly injures, defaces, or destroys any Bushman relic or ancient ruin situated in the Bechuanaland Protectorate, shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

4. The High Commissioner may make regulations for the better carrying out of the objects and purposes of this Proclamation.

5. This

(3)

5. This Proclamation may be cited for all purposes as: The Bushman Relics and Ancient Ruins Protection (Bechuanaland Protectorate) Proclamation 1911 and shall take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this  
19th day of November One thousand Nine hundred  
and Eleven.



HIGH COMMISSIONER.

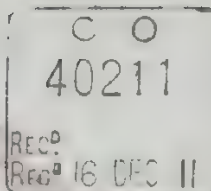
By Command of His Excellency  
the High Commissioner.



Acting Imperial Secretary.



No. 4 of 1911



P R O C L A M A T I O N  
BY HIS EXCELLENCY THE HIGH COMMISSIONER.

-----

WHEREAS it is expedient to provide for the Prevention, Suppression and Punishment of certain Offences and to amend in certain respect the Law relating to the Detention of Convicted Persons in Swasiland:

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swasiland Order-in-Council 1903 as amended by the Swasiland Order-in-Council 1906 and the Swasiland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. In this Proclamation, unless inconsistent with the context:-

"imprisonment" shall mean imprisonment with or without hard labour as the court which passes sentence for an offence mentioned in this Proclamation may determine;  
"place of public resort" shall mean any place of entertainment, amusement, or refreshment to which the public have access, whether by payment for access or otherwise;  
"public place" shall mean any place to which the public have access, but shall not include a "place of public resort" as herein described.

P A R T   I .

OFFENCES.

2. Any person who shall:-

(1) in or near any public place or place of public resort, make use of any insulting, indecent, obscene,

blasphemous

blasphemous, or threatening language;

(2) in or within sight of any public place, or in any place of public resort indecently expose his person or make indecent signs or gestures;

(3) in or from any public place or place of public resort, follow or address any female in an insulting manner;

(4) write or transmit, or knowingly be party to the writing or transmission of any communication containing threats of bodily injury to any person, or indecent or obscene matter;

(5) in the hearing or to the knowledge of any other person by speech or writing or other representation use insulting or defamatory language, descriptions, or gestures of or to or concerning any person:

(6) manufacture, or sell, or expose for sale, or exhibit any obscene or indecent figure, cast, statue, or model;

(7) sell, make, print, circulate, exhibit, or publish any indecent book, paper pamphlet, photograph, card, picture, or other representation;

(8) advertise or cause to be advertised or publish or circulate any publication containing an advertisement of, any means, methods, medicines, drugs, or appliances calculated to prevent or intended for the prevention of conception or calculated to procure or intended for the procuring of abortion;

(9) sell, buy, or use any so called love-philtre, or aphrodisiac or any other matter or thing intended to excite carnal desire;

shall be liable on conviction to a fine not exceeding seventy five pounds or, in default of payment, to

imprisonment



(3)

imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

3. Any person who shall:-

(1) in any public place or place of public resort and after having been warned to refrain by a police officer or police constable, take part in, or permit, any dangerous performance or the doing of any dangerous act;

(2) in any public place or place of public resort, induce or permit any child under the age of sixteen years to take part in any dangerous performance or dangerous act;

(3) knowingly point at any person any firearm or air-gun, whether with intent to injure that person or not and whether the firearm or air-gun be loaded or not, unless allowed or required by law; shall be liable on conviction to the penalties mentioned in the last preceding section.

4. 4. Any person who shall:-

(1) give way to the use of intoxicants or drugs or to gambling or to idleness, in such manner that either he or those dependent upon him become destitute or obtain or have to seek relief from others;

(2) neglect to restrain children under his care from begging or from vagrancy, truancy, theft, or contravention of the law regulating the sale of intoxicating liquor; shall be liable on conviction to the penalties mentioned in section two.

5. Any person who, being the keeper or having the management of any place of public resort, shall-

(1) knowingly

(1) knowingly permit pimps or prostitutes to frequent such place; or

(2) knowingly suffer prostitution, or procuration for the purposes of prostitution, to be carried on, in or about such place; or

(3) knowingly suffer gaming or wagering to take place in or about such place; or

(4) conduct such place otherwise than in an orderly and proper manner;

shall be liable on conviction to the penalties mentioned in section two and upon such conviction the licence (if any) held by him in respect of such place of public resort may, in the discretion of the court passing sentence, be forfeited on the first conviction; and in the case of a second conviction for any such offence, the licence shall be forfeited and the holder thereof shall be disqualified for a period of two years from holding any such licence, and whenever two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the court shall direct that for a period not exceeding two years from the date of the last of such convictions no licence as aforesaid shall be issued or renewed to any person whatever in respect of those premises, and any licence if issued or renewed in contravention of this section, shall be void.

The holder of any such licence charged with a contravention of this section shall produce that licence for examination, and if the licence be forfeited under this section, shall deliver it up to the authority which issued it, and if such person shall fail when required

so to produce or deliver up the licence he shall, in addition to any other penalty to which he may be liable under this section, be liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

6. Any person who, being an officer in the public service and as such becoming the recipient or possessor of secret or confidential information or knowledge, shall without authority or lawful cause divulge such information or knowledge, shall be liable on conviction to the penalties mentioned in section two.

7. Any person who shall:-

(a) print, publish, sell, or circulate any newspaper, book, pamphlet, or document containing detailed evidence of an immoral, obscene, indecent, or disgusting character given in any proceedings:

(b) print, publish, sell, or circulate a newspaper, book, pamphlet, or document containing a report of evidence of any proceedings when in the interests of good order or public morals any members of the public have been excluded from the hearing of those proceedings shall be liable on conviction to the penalties mentioned in section two.

## PART II.

### MODES OF DEALING WITH CONVICTED PERSONS.

8. (1) Any person who, having been convicted on two or more separate occasions (either in Swaziland or elsewhere, and whether before or after the coming into operation of this Proclamation) of any <sup>such</sup> offence as is mentioned in the schedule to this Proclamation, shall if he be thereafter convicted before the Resident

Commissioner's Court or the Special Court of Swaziland of any of these offenses whether committed before or after the coming into operation of this Proclamation be liable to be declared by the court before which he is then convicted an habitual criminal, provided that such declaration shall be subject to confirmation by the High Commissioner, and where the same is not confirmed the High Commissioner may substitute therefor such sentence of imprisonment with or without hard labour as he may think fit.

(2) An habitual criminal shall be detained with hard labour in a prison during the High Commissioner's pleasure and shall not be released unless and until the High Commissioner upon a report from the Resident Commissioner or after communicating with the Resident Commissioner considers that there is reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life, or that he is no longer capable of engaging in crime or that for any other reason it is desirable to release him.

(3) The High Commissioner may subject to the provisions of the preceding subsection order the release on probation of the habitual criminal for any period, and on any conditions as to supervision or otherwise, which the High Commissioner may determine or may order the unconditional release of that criminal.

(4) A person so released on probation who shall fail to observe any condition of his release may be arrested and recommitted to prison by warrant under the hand of the Resident Commissioner and shall be detained in prison as if he had not been so released.

(5) If a person so released on probation complete

the



the period thereof without breaking any condition of his release he shall no longer be deemed an habitual criminal.

(6) The Resident Commissioner shall furnish to the High Commissioner at least once in every year a report in writing containing detailed particulars relative to the history, conduct, and industry of each habitual criminal detained in prison in Swaziland.

9. The Resident Commissioner shall further, at least once in every year furnish to the High Commissioner a report in writing containing detailed particulars relative to the history, conduct and industry of every convict detained in prison in Swaziland who, whether sentenced before or after the coming into operation of this Proclamation, has completed a period of two years of his sentence. Upon receipt of that report the High Commissioner may, if the same be favourable in regard to any such convict, release him upon probation or remit the remainder of his sentence. If the convict be released upon probation under this section the provisions of sub-section (4) of the last preceding section shall mutatis mutandis apply to him; provided that if the convict be recommitted by the application of that sub-section the period of his detention thereafter shall not exceed the unexpired portion of his sentence excluding the period during which he was on probation.

10. (1) Notwithstanding anything to the contrary contained in sections two hundred and sixty-two, two hundred and sixty-three and two hundred and sixty-four of the Criminal Procedure Code, 1903, of the Transvaal as amended and in force in Swaziland, any court before

which



which a person may be convicted and sentenced for the first time for an offence against property or against the person (other than murder or rape or assault with intent to commit those offences or indecent assault), may suspend the operation of the sentence for such reasonable time as will allow such person to compensate the person to whom damage or injury has been caused by the offence.

(2) That court shall proceed forthwith to determine the amount of the compensation, and, if the condition upon which the sentence was suspended be fulfilled, the offender shall be deemed to have received a free pardon for the offence.

(3) If that condition be not fulfilled the offender may be arrested without warrant and shall thereupon be committed by the court to prison to undergo the said sentence.

11. Whenever a person is convicted of an offence, not punishable with death the court before which he is convicted may order the operation of the sentence to be suspended on conditions to be mentioned in the order. That person shall thereupon be released, but if he fail to observe any condition of his release he may be arrested and committed to prison by warrant under the hand of the Resident Commissioner, there to undergo the sentence passed upon him for the said offence.

12. (1) A white person who is apparently under the age of sixteen years and charged with any offence shall not, without the written authority of the Assistant Commissioner of the district in which such person is found or charged be detained in any prison, gaol, or lock-up while awaiting trial.

(9)

(2) Save as in this section is otherwise provided, every such person shall be detained in some place generally or specially determined by such Assistant Commissioner:

Provided that any police officer may, unless

(a) the charge made against such person be that of homicide or any other serious offence; or

(b) in the opinion of such officer, it be necessary to remove such person from the association of persons of bad character; or

(c) the ends of justice are likely to be defeated; release from custody a person detained in accordance with sub-section (2), if his parent or guardian will enter into recognisances, with or without sureties, for his appearance when required to answer the charge made against him.

13. This Proclamation may be cited for all purposes as the Swaziland Criminal Law Amendment Proclamation, 1911, and shall come into force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this 18<sup>th</sup>  
day of November, One thousand Nine hundred and Eleven.



*G. M. M. M.*

HIGH COMMISSIONER.

By Command of His Excellency  
The High Commissioner.

*R. H. H. H.*

*Acting*

Imperial Secretary.

SCHEDULE.

Rape.

Robbery.

Assault with intent to commit any of those offences or in  
which a dangerous wound is given or indecent assault.

Arson.

Forgery or uttering forged documents knowing the same  
to be forged.

House breaking with intent to commit an offence.

Fraud.

Theft.

Receiving stolen property well knowing the same to have  
been stolen.

Offences described in parts A B or C of Ordinance No. 26  
of 1904 of the Transvaal as in force in Swaziland.

Offences described in Ordinance No. 46 of 1903 of the  
Transvaal or any amendment thereof as in force in  
Swaziland.

Offences described in Ordinance No. 63 of 1903 of the  
Transvaal as in force in Swaziland.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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Whereas it is expedient to require persons who sell or export for sale game killed within the Bechuanaland Protectorate to obtain a licence for that purpose:

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. For the purposes of this Proclamation "Game" shall include all animals and birds named in the Schedule to this Proclamation or in such schedule as amended under section nine.

2. No person shall sell, barter, hawk, offer, expose or export, for sale any game killed within the Bechuanaland Protectorate without being in possession of a licence authorising him to do so: provided however that the owner or occupier of any land within the Bechuanaland Protectorate may sell barter hawk offer expose or export for sale game killed upon such land without being in possession of such a licence.

3. Every such licence shall be for a period not exceeding one year and shall expire on the 31st day of December, in the year for which it is granted and the amount payable for every such licence shall be the sum of two pounds sterling; provided that for licences taken out after the 30th day of June in any year only one half of such amount shall be payable.

4. Every such licence shall be issued subject to such conditions as to the quantity and description of game which may be sold, exported or otherwise dealt with thereunder and the time of the year during which it may be sold exported or otherwise dealt with as may be endorsed on the licence prior to the issue thereof by the Resident Commissioner or any officer authorised by him to issue licences.

5. The issue or renewal of any licence may be refused by the Resident Commissioner or any officer authorised by him to issue licences without any reason being given for such refusal.

6. Every person who shall, in contravention of section two of this Proclamation, or in contravention of any condition endorsed on his licence, sell, barter, hawk, offer, expose, or export for sale any game killed within the Bechuanaland Protectorate, shall be liable to a penalty not exceeding ten pounds or in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

7. Nothing in this Proclamation contained shall apply to any member of a native tribe who shall sell, barter, hawk, offer, expose or export for sale game killed by him within the territory lawfully hunted by such tribe.

8. In any prosecution for an offence against this Proclamation,-

(a) Any game proved to have been exported from the Bechuanaland Protectorate shall be deemed to have been exported for sale unless and until the contrary is proved:

(b)



(b) Any game proved to have been sold bartered, hawked, offered or exposed for sale within or exported for sale from the Bechuanaland Protectorate shall be deemed to have been killed within the Bechuanaland Protectorate unless and until the contrary is proved.

9. The High Commissioner may from time to time by notice in the Gazette amend the Schedule to this Proclamation and add to or withdraw therefrom the name of any bird or animal.

10. This Proclamation shall have force and effect from the first day of January 1912.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Johannesburg*,  
this *Eighteenth* day of December, One thousand  
nine hundred and eleven.



*Gladstone*

High Commissioner.

By Command of His Excellency

The High Commissioner.

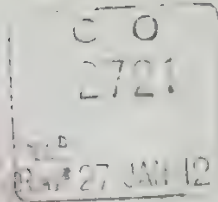
*John Smith*

Imperial Secretary.

SCHEDULE

Rhebuck,  
Klipspringer  
Duiker  
Steinbuck  
Hare  
Wild Goose  
Wild Duck  
Snipe  
Pauw  
Black Korhaan  
Vaal Korhaan  
Bush Korhaan  
Dikkop  
Guinea fowl  
Pheasant  
Partridge  
Grouse  
Plover.

No 43 of 1911



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
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WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Land;

NOW therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 and by virtue of the further authority conferred upon me under the Swaziland Crown lands and Minerals Order in Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order in Council 1910, I do hereby declare proclaim and make known as follows:-

The area of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown land and shall be registered and known as Lot No.3, Ubombo District, Swaziland; provided always that the Proclamation of the said area as Crown Land shall not affect any Concession lease servitude or other right subsisting in respect of the said area which is registered at the date of such publication and is not vested in the Crown.

- GOD -

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at *Johannesburg*  
this *Thirtieth* day of *December* One thousand  
Nine hundred and *Eleven*



*W. M. M. M.*

High Commissioner

By Command of His Excellency

The High Commissioner.

*C. H. Rodwell*

Imperial Secretary.

SCHEDULE

Portion of land held under Land Concession No. 40  
situate in District Ubombo, Swaziland, in extent 7823  
morgen 24 square roods, as shewn on diagram S.G.No.8.  
10/11 confirmed by the Surveyor General by the figure  
P.G.H.K.mid. Great Usutu River to its junction with  
the Inyetan River near L. mid. Inyetan River to H.  
and thence to first mentioned beacon F.

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# PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to make provision for the High Commissioner or his Agent or Inspector or Sub-Inspector of Police in Basutoland to try minor offences committed in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaimed and make known as follows:—

1. Regulation No. 3 (which relates to the exercise of jurisdiction by Inspectors of Police in Basutoland) contained in the High Commissioner's Proclamation No. 28 of 1884 dated the 29th day of May 1884 shall be and is hereby repealed and Regulation No. 9 (which relates to appeals to the Resident Commissioner) contained in the said Proclamation shall be and is hereby amended by the deletion therefrom of the words "or Inspector of Police".

2. It shall be lawful for the High Commissioner from time to time by notice in the *Gazette* to confer upon any Inspector or Sub-Inspector of Police serving in Basutoland jurisdiction to try minor offences committed within the district described in such notice and to punish any offender in the manner therein specified: provided that authority shall not be conferred upon any Inspector or Sub-Inspector under this Proclamation to punish any offender in a higher or more severe manner than by a fine not exceeding five pounds or by imprisonment with or without hard labour for a period not exceeding three months or both such fine and such imprisonment.

3. It shall not be lawful for any Inspector or Sub-Inspector of Police serving in Basutoland to appeal against any conviction or sentence passed upon him by such officer to the Assistant Commissioner of the district in which such officer exercises jurisdiction. And any such appeal shall be subject to such special rules and conditions as the Resident Commissioner may with the approval of the High Commissioner from time to time prescribe by notice in the *Gazette*, and in matters for which such special rules and conditions do not provide shall be subject to the same rules and conditions *mutatis mutandis* as are for the time being in force with respect to appeals from any judgment of an Assistant Commissioner.

4. It shall be lawful for any person who shall be convicted by an Inspector or Sub-Inspector on whom jurisdiction has been conferred under this Proclamation to appeal against any such conviction and any sentence passed upon him by such officer to the Assistant Commissioner of the district in which such officer exercises jurisdiction. And any such appeal shall be subject to such special rules and conditions as the Resident Commissioner may with the approval of the High Commissioner from time to time prescribe by notice in the *Gazette*, and in matters for which such special rules and conditions do not provide shall be subject to the same rules and conditions *mutatis mutandis* as are for the time being in force with respect to appeals from any judgment of an Assistant Commissioner.

5. All sentences imposing the payment of a fine not exceeding five pounds or imprisonment with or without hard labour for a period not exceeding three months passed by Sub-Inspector Reginald Collier while stationed in the Leribe District between the 28th day of February 1910 and the date of the taking effect of this Proclamation and all sentences imposing the payment of a fine not exceeding five pounds or imprisonment with or without hard labour for a period not exceeding three months passed by Sub-Inspector Reginald Collier while stationed in the Quthing District between the 28th day of March 1911 and the date of the taking effect of this Proclamation shall be deemed to have been from the date of imposition as valid for all intents and purposes as if jurisdiction in respect of minor offences committed within their respective districts had been duly conferred on the said officers under this Proclamation.

6. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Fourteenth day of January One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary

(Printed by the Government Printer, Pretoria.)

Her Majesty's  
High Commissioner  
(for Basutoland)  
11-1-12

No. 2 of 1912.

PROCLAMATION

By His Excellency the High Commissioner.

*Criticizes use of term  
'Coloured person' in  
Article 23 of Regulation  
No. 14 of 1904 of Transvaal  
and is inconsistent  
with the Constitution*

WHEREAS it is expedient to empower the High Commissioner to make Regulations for the good government of Townships in Swaziland and of areas adjacent thereto

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. The Regulations for Towns in the South African Republic published in the Staats Courant of the 28th October 1899 page 1073 and amended by the Town Lands Ordinance 1904 (No. 14 of 1904) of the Transvaal shall be and are hereby repealed in so far as they are in force in Swaziland.

2. The High Commissioner may from time to time by notice in the Gazette declare any proclaimed township in Swaziland together with any commonage or other land public or private adjacent thereto to be an urban area for the purposes of this Proclamation and may from time to time by like notice vary the boundaries of any such urban area.

3. The High Commissioner may from time to time by notice in the Gazette make alter and repeal Regulations for any urban area not inconsistent with this Proclamation for

all or any of the following purposes:-

- (a) For compelling the provision and use of proper sanitary appliances and conveniences;
- (b) for regulating and compelling the removal of night soil stable litter filth and refuse from private premises and from all streets roads and public places and the proper disposal thereof; for enabling the Resident Commissioner to establish and carry on a sanitary service for the purpose of such removal and disposal, for compelling the use of such service and for fixing the charges payable therefor and providing for the recovery of such charges from the owners or occupiers of premises;
- (c) for prohibiting the deposit of garbage refuse or rubbish in any street road or public place or on unoccupied land;
- (d) for the prevention and abatement of nuisances and the removal of insanitary conditions;
- (e) for preventing the overcrowding of any premises and regulating the number of persons who may occupy any premises;
- (f) for preventing the occupation of unoccupied land by unauthorised persons or squatters;
- (g) for regulating vehicular and pedestrian traffic and for the establishment and regulation of outspans;
- (h) for regulating the slaughter of animals and the conveyance of meat;
- (i) for prohibiting and preventing the sale or offering for sale and for authorising the detention or seizure and destruction of any article of food whether liquid or solid which is unfit for human consumption and for regulating the storage of food;

- (j) for preserving public decency;
- (k) for preventing the pollution of any source of water supply and for regulating the supply and distribution of any water which the inhabitants have a right to use;
- (l) for the preservation of trees shrubs and plants in any road street or public place;
- (m) for regulating the construction of buildings and for compelling the removal or rendering safe of defective or dangerous buildings;
- (n) for the inspection of any land buildings or premises;
- (o) for regulating and restricting the keeping of live stock including fowls; for providing for the killing of fowls found straying in any road street or public place and the impounding of other live stock found unattended in any road street or public place; and for regulating the driving or conducting of live stock in any road street or public place;
- (p) for establishing maintaining and controlling cemeteries;
- (q) for the preservation of the public health and safety;
- (r) generally for maintaining the good rule and government of the urban area.

Every such regulation shall have the force of law within the urban area for which it is made or to which it may thereafter be applied by the High Commissioner by notice in the Gazette.

4. The High Commissioner may empower the Resident Commissioner to appoint for any urban area inspectors or other officers for the purpose of carrying out and enforcing any regulations made under this Proclamation.



5. Where by any regulation made under this Proclamation charges for sanitary service are made payable by the owner of the premises in respect of which the service is rendered the owner shall in the absence of any agreement to the contrary be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of the said occupier.

6. Any person contravening any regulations made under this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £10 or in default of payment to imprisonment with or without hard labour for any period not exceeding one month; and any such regulation may provide that in addition to such fine any expense incurred by the Resident Commissioner or any officer appointed by him in consequence of any breach of such regulation or in the execution of any work directed by any such regulation to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work. Any person obstructing any officer appointed by the Resident Commissioner in the performance of his duties under any such regulation shall be guilty of an offence and shall be liable on conviction to the penalties mentioned in this section.

7. Nothing in this Proclamation contained and no regulation made thereunder shall be deemed to prohibit the owner of any mineral concession in respect of land within any urban area or any person employed by such owner in mining or in any process subsidiary thereto from doing any act which is authorised by such concession or which is reasonably necessary for the exercise of the rights held under such concession.



3. The Regulations set out in the schedule hereto shall until altered or repealed by notice in the Gazette under this Proclamation be the Regulations under this Proclamation and shall be in force within any urban area to which they are applied by the High Commissioner by notice in the Gazette.

9. Notwithstanding anything contained in Law No.2 of 1902 of the Transvaal usually known as the "Pound Law" as in force in Swaziland and in Proclamation No.31 of 1908 amending the same it shall not be lawful to impound stock trespassing on ground other than roads streets or public places situate within any urban area declared as such under Section two of this Proclamation and no compensation shall be payable for damage occasioned by any stock trespassing on such ground unless such ground is enclosed by a wall not less than four feet in height or by a fence composed of not less than four strands of wire.

10. This Proclamation may be cited for all purposes as the "Swaziland Urban Areas Regulations Proclamation 1912" and shall have force and take effect from the date of its publication in the Gazette.

G'D SAVE THE KING!

Given under my Hand and Seal at *Cape Town* this *first*  
day of *February* one thousand nine hundred and twelve.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner,

*[Signature]*

Imperial Secretary.

S c h e d u l e .

REGULATIONS FOR URBAN AREAS IN SWAZILAND.

1. In these Regulations unless inconsistent with the context.

- (i) "Town Inspector" shall mean any officer from time to time appointed by the Resident Commissioner to inspect the Urban area and carry out the duties assigned to him by these regulations;
- (ii) "Police Officer" shall mean any European Police Officer or Trooper of the Swaziland Police;
- (iii) "Medical Officer" shall mean the Government Medical Officer or such other registered medical practitioner as may be appointed by the Resident Commissioner as Medical Officer of the urban area.
- (iv) "Premises" shall include any land building room structure tent van vehicle stream lake dam pool drain ditch or place covered or enclosed whether built on or not and whether public or private;
- (v) "Owner" shall include any person receiving the rents or profits of any premises from any tenant or occupier thereof or who would receive such rents or profits if such premises were let whether on his own account or as agent for any person entitled thereto or interested therein.
- (vi) "Occupier" shall include any person in actual occupation of premises without regard to the title under which he occupies and in case of premises sub-divided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as agents for any person entitled thereto or interested therein.
- (vii) "Street" shall include any public street road square or thoroughfare.

2. The occupier of any premises or in the case of unoccupied premises the owner thereof shall keep the same in a sanitary condition and shall make arrangements for the removal therefrom of all dirt and rubbish to such place or places as may be pointed out to him by the Town Inspector. No dirt or rubbish shall be thrown on any street or public place. All dirt or rubbish on any premises if not removed within a reasonable time after warning by the Town Inspector may be removed by him at the cost of the occupier or in the case of unoccupied premises the owner who shall be liable to pay such costs in addition to any fine imposed on him for contravention of this regulation.
3. The owner of any premises shall erect and maintain thereon in sanitary order to the satisfaction of the Town Inspector so many closets as shall in the opinion of the Medical Officer be necessary for the requirements of the persons residing or employed on such premises or frequenting the same. Buckets of a pattern and to the number approved by the Medical Officer shall be supplied by the Owner.
4. The Resident Commissioner may establish a sanitary service for the removal and disposal of night soil and other refuse and such service shall be carried out by the Town Inspector subject to the instructions of the Medical Officer. In respect of each closet bucket in use on any premises there shall be paid in advance by the owner to the Assistant Commissioner of the district the sum of five shillings per month to cover cost of such service.
5. No person shall relieve nature within the limits of the urban area except in places approved of for that purpose by the Medical Officer.
6. No pigs shall be kept on any premises within the urban area except with the written permission of the Medical Officer and on such conditions as he may prescribe. Such permission  
may

may be withdrawn at any time.

7. The carcase of every animal dying within the limits of the urban area shall be removed as soon as possible by the owner to such place as may be indicated by the Town Inspector. Any owner failing to remove such animal within twelve hours after death shall be guilty of a contravention of this regulation and shall in addition to any fine imposed for such contravention be liable to pay any costs of removal incurred thereafter by the Town Inspector or any other person authorised by him to remove such carcase.
8. It shall not be lawful to carry on within the limits or in the immediate neighbourhood of the urban area any trade or business which gives rise to injurious or offensive exhalations or vapours or to keep within the limits of the urban area any noxious or offensive articles.
9. The Town Inspector may at all reasonable times enter upon any premises to inspect the same; provided however that he shall not enter into any house used as a dwelling by Europeans against the wish of the occupiers unless he shall produce a written order from the Assistant Commissioner of the district authorising him to do so. No such order shall be granted by the Assistant Commissioner in respect of any house unless he has reasonable grounds for belief that such house is in an insanitary condition.
10. If any premises shall be found in an insanitary condition or if any nuisance shall be found to exist on any premises the Town Inspector may order the owner or occupier thereof to remedy such condition or to abate such nuisance within such reasonable time as he may specify and if at the expiration of such time the necessary work shall not have been done to his satisfaction the person in default shall be guilty of a contravention of this regulation and the Town Inspector may cause the same to be done at the cost of such person who

shall



shall be liable to pay such cost in addition to any fine imposed upon him for such contravention; provided that where any work of a structural character is required to be done under this regulation the order shall be made on the owner.

11. If the number of persons living in any dwelling house or hut shall be so great as to be likely in the opinion of the Medical Officer to cause or to conduce to injury to health he may order the owner to reduce the number of such persons to a less number to be specified by him and failing compliance with such order the owner may be prosecuted for a contravention of this regulation.
12. Animals shall not be slaughtered except at places to be indicated by the Medical Officer. All slaughter poles and butchers' wagons and carts intended for the conveyance of meat shall be kept clean by the persons using the same to the satisfaction of the Medical Officer or Government Veterinary Surgeon. No person shall convey meat in a wagon or cart which is not lined with tin and the person in charge of any wagon or cart in which meat is being conveyed shall keep such meat covered from sight.
13. No person shall store or allow to be stored fresh meat fresh or salted fish fruit vegetables or other produce of a like nature in any room which is used as a living room or bedroom.
14. No person shall sell or offer for sale any meat fish milk vegetables fruit or any other article of food liquid or solid which is unfit for human consumption. It shall be lawful for the Town Inspector or any police officer immediately to detain or seize any such article which is in their opinion unfit for human consumption. They shall without loss of time report such detention or seizure to the Medical Officer (or in his absence to the Public Prosecutor) who shall upon being satisfied that the article detained or seized is unfit



for human consumption order the same to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man.

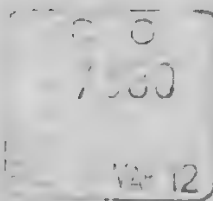
15. Any owner or person in charge of a wagon or other conveyance may be required by the Town Inspector or any Police Officer to move the same from any place in a street and no wagon or other conveyance shall be outspanned in a street in such a manner as to form an obstruction.
16. The owner or person in charge of any vehicle wagon or other conveyance in which any draught animals are inspanned shall not allow the same to proceed in any street or to halt therein without some competent person being in attendance thereon and in case such draught animals are oxen shall take care there is a leader.
17. Herds of sheep shall not be driven through any street without the special permission of the Town Inspector and may only be so driven at the time fixed by him.
18. No person shall be allowed to gallop in the streets or to travel faster than is consistent with the safety of the public.
19. No person shall cycle on the side walks.
20. Any poultry found straying in any street or public place may forthwith be killed. All livestock found unattended in any street or public place may be impounded ; provided however that while such street or place is not being commonly used as such by the public animals found there shall not be impounded under this regulation.
21. Any wall or building whether abutting on a street or otherwise which is insecure or dangerous shall be demolished or repaired or supported by the owner in such manner as may be directed by the Town Inspector. Any owner failing to carry out with all reasonable speed any work required to be carried out under this section in accordance with the directions of the Town Inspector shall be guilty of a contravention of

this regulation and shall in addition to any fine imposed for such contravention be liable to pay any costs incurred by the Town Inspector in carrying out such work.

22. When any building is in course of construction or repair a portion of the street contiguous to the site thereof not exceeding twelve feet in width may be used for the carrying out of the work. Any portion of the street so used shall be fenced by the person using the same to the satisfaction of the Town Inspector.
23. Coloured persons shall not reside in any place abutting on a street but every owner may keep in his backyard whatever servants he requires for his own service.
24. No person shall disturb the public peace or commit a nuisance by keeping any house of ill fame or brothel or by making any unnecessary noise whether by day or by night whether in the street or in any public place or in any public or private building or in any place where divine service is held. No person shall use any indecent or blasphemous words in public.
25. No person shall permit any horse or donkey stallion or bull or dangerous animal or dog affected with mange or any bitch in heat to run loose within the limits of the urban area.
26. No person male or female shall enter or go about in the urban area unless properly clad.
27. No person shall carry a loaded gun or other loaded firearm in or through the urban area or fire the same or explode any dynamite or explosive within or within a distance of one thousand yards from the urban area; provided however that this regulation shall not apply to police acting in the execution of their duty or to such other persons as may be acting under lawful authority.
28. No person shall outspan a transport wagon on any land set apart as Town Lands or Commonage except at places to be indicated by the Assistant Commissioner of the District.

29. No person shall pollute or without the authority of the Town Inspector interfere with the distribution of any water used for public purposes or damage any water furrows in the urban area.
30. No person shall damage or destroy any trees shrubs or plants growing on any land set apart as Town Lands or Commonage or planted in any street or public place.
31. It shall not be lawful to bury the body of any deceased person in any place within the urban area other than that specially set apart for the purpose and any person causing a body to be buried in any place other than that so set apart shall be guilty of a contravention of this regulation and shall in addition to any fine imposed for such contravention be liable to pay any costs incurred by the Town Inspector in the re-interment of such body in the proper place.

-----oOo-----



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
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WHEREAS it is expedient to make further and better provision for the prevention and repression of theft of stock and produce in the Bechuanaland Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The Act of the Parliament of the late Colony of the Cape of Good Hope known as the Stock and Produce Theft Repression Consolidation Act 1893 (Act No.35 of 1893), the terms of which are set forth in the Schedule to this Proclamation, is hereby declared to be in force and to have effect (except section thirty-nine thereof) within the limits of the Bechuanaland Protectorate.

2. In the application of the said Act to the Bechuanaland Protectorate the expression "Governor" shall mean the High Commissioner and the expression "Gazette" shall mean the Official Gazette of the High Commissioner, and all powers, authorities, functions, duties, and jurisdiction which under the said Act are in the Cape of Good Hope exercisable or to be exercised by any officer or by any court in the said Act mentioned shall, as far as they are capable of being exercised in the Bechuanaland Protectorate, be

- exercisable -

exercisable or performed by the officer or court having like powers, authority, functions, duties, and jurisdiction in the said Protectorate.

3. This Proclamation shall have force and take effect from the date of its first publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *first* day of *February* One thousand  
Nine hundred and Twelve.



*[Signature]*  
High Commissioner.

By *[Signature]* of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.



# SCHEDULE

ACT No. 35 of 1893.]

[Promulgated 12th September, 1893.]



## CAPE OF GOOD HOPE.

### ANALYSIS.

- Preamble.
1. Repealed Laws.
  2. Interpretation of terms.
  3. Trial to be conducted in ordinary manner, and not to be kept.
  4. Plea of guilty and sentence to be recorded.
  5. Sections 13, 17, 18 and 19 of Act No. 20 of 1876, and Sec. 4 of Act 21 of 1876 to apply.
  6. Findings under charge of theft.
  7. Jurisdiction of Court of Resident Magistrates.
  8. Restrictions to be observed in infliction of spare diet.
  9. Judgment for compensation and damages.
  10. The proof to be such as will enable the owner to obtain judgment in a civil action.
  11. Judgment not to exceed £10.
  12. Except where animal recovered.
  13. Execution of civil judgments. Security.
  14. In cases of accident where security shall have been given, judgment to be void.
  15. Right of civil action reserved to owner.
  16. Procedure where civil judgment has been put into execution and conviction pushed, or criminal proceedings abandoned.
  17. Further process to value of stolen animals.
  18. When animal can give to superior Court, Magistrate must transmit to Registrar particulars of judgment.
  19. When Magistrate has given judgment for value of stolen stock, such judgment may be obtained from the same officer or person.
  20. When case is referred to Magistrate for trial, the particulars of the judgment for value of stolen stock are to accompany his record of proceedings.
  21. Judgment given for value of stolen property to be in force when Attorney General declines to prosecute unless security for private prosecution is given.
  22. Value of stolen property to be taken from any person persons concerned in theft.
  23. Owner not to be allowed to apply for judgment, but may proceed by civil action. If damages exceed £10, owner may sue for excess.
  24. Magistrate in certain cases empowered to commit property to examination.
  25. Magistrate may stop trial and turn proceedings into preparatory examination.
  26. Fine.
  27. Disposal of fine.
  28. Fine imposed by Resident Magistrate subject to review by Supreme Court.
  29. Goods attached to satisfy fine not to be sold before confirmation of sentence.
  30. In case of reduction or disallowance of fine, refund to be made.
  31. Penalty on purchase or receipt of stolen stock or produce without reasonable belief that vendor had right to sell.
  32. Transactions exempted from operation of preceding section.
  33. Imprisonment upon failure to pay fine.
  34. Penalty for entry upon enclosed place with intent to steal stock.
  35. Presumptive evidence of intent to steal.
  36. Theft of stock and entry upon enclosed place with intent to steal, may be charged in same indictment.
  37. Suspected person may be apprehended without warrant.
  38. Sacks, &c., of persons suspected to be conveying wool, &c., may be searched, and persons apprehended without warrant.
  39. If unable to give explanation to be deemed guilty of theft.
  40. On charge of theft when court or jury satisfied that prisoner had no guilty knowledge that stock was stolen.
  41. Payment to person who gives information leading to a conviction.
  42. Penalty for wrongful arrest.
  43. Persons authorised to search buildings, &c., for stolen stock or produce.
  44. Penalty for malicious exercise of authority to search.
  45. Damages.
  46. Resident Magistrate to impose penalty and award damages.
  47. Proviso.
  48. Purchase of feathers, skins or hides between sunset and sunrise prohibited, except at public sales.
  49. Penalty for contravention of foregoing section.
  50. Not to apply to contract of sale where price not less than £50.
  51. Secs. 36, 37 and 38 to be in force in any division upon proclamation after request of Council by vote of three-fourths at special meeting.
  52. Short title.
  53. Schedule.

## ACT

TO

Consolidate and Amend the Law relating to the Theft of Stock and Produce.—  
[Assented to 9th September, 1893.]

BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

1. The laws mentioned in the Schedule to this Act to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed, except as to proceedings instituted previously to the promulgation of this Act.

2. In the interpretation of this Act the following terms shall have the meanings hereinafter assigned to them, that is to say:—

“Stock” shall include any horse, mare, gelding, colt, filly, mule or ass; any bull, cow, ox, heifer or calf; any sheep, goat, or pig or domesticated ostrich; and the slaughtered carcass, or portion of the slaughtered carcass of any such stock.

“Produce” shall include all skins, hides, horns, wool, mohair and ostrich feathers.

Preamble.

Repealed Laws.

Interpretation of terms.

"Sufficient fence," when applied to wire fences, shall mean a fence of not fewer than four wires and not less than three feet six inches high, in other cases any fence, wall or hedge through which no stock could pass without breaking, or any natural boundary through or across which no sheep would ordinarily pass.

"Theft" shall embrace besides actual stealing (1) receiving knowing to have been stolen, (2) attempting to steal, and (3) being or having been in unlawful possession, not being able to give a satisfactory account of such possession.

"Supreme Court" shall, within the limits of their respective jurisdictions include the Eastern Districts Court and the High Court of Griqualand West, as the case may be.

"Attorney-General" shall, within the limits of the districts in which they exercise their offices, include the Solicitor-General or the Crown Prosecutor respectively.

Trial to be conducted in ordinary manner, and meant to be kept.

3. In the trial of cases under this Act the courts of Resident Magistrates shall (except as hereinafter is excepted) proceed in like manner as in criminal cases falling within their ordinary jurisdiction: Provided that in all cases under this Act, the Magistrate shall take down in writing, or cause to be taken down in writing, the evidence in the case, the judgment of the court, and should such judgment be a judgment of "guilty," the sentence pronounced upon the offender.

Plea of guilty and sentence to be recorded.

4. On the day of the hearing of any case under this Act, the Magistrate shall read over, or cause to be read over, to the accused person the charge or complaint against him, and shall ask him if he pleads "guilty" or "not guilty" to the offence set forth in such charge or complaint; and should such person plead "guilty," his said plea shall be recorded, as shall also the sentence pronounced upon the offender.

Sections 43, 47, 48 and 49 of Act No. 20 of 1856 and Sec 4 of Act 21 of 1876 to apply

5. The provisions of the forty-third, forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20, 1856, entitled "An Act for amending and consolidating the Laws relative to the Courts of Resident Magistrates," and of the fourth section of Act No. 21 of 1876, as amended by this Act, shall extend and apply to all cases of convictions under this Act, whether upon a plea of "guilty" or after a plea of "not guilty," and whatever may be the period of imprisonment or the number of lashes to which the offender shall have been sentenced.

Findings under a charge of theft.

6. It shall be lawful for the courts of Resident Magistrates on the trial of any accused person for theft, as defined by this Act, to find such accused person guilty of any of the offences embraced in the term theft as so defined, although such accused person may not have been originally charged with that particular offence.

Jurisdiction of Courts of Resident Magistrates.

7. From and after the taking effect of this Act the courts of Resident Magistrates shall, respectively, have jurisdiction, in all cases in which any person may be accused of the theft of any stock or produce, provided that it shall not be lawful save as is hereinafter excepted for any such court to punish any person convicted of any such theft in any higher or other manner than, in the case of a first conviction, by imprisonment with or without hard labour for any period not exceeding one year, or by imprisonment with spare diet and w.t. or without hard labour for any period not exceeding three months, or by corporal punishment in any number of lashes not exceeding twenty-five, or by both such first-mentioned imprisonment and such lashes; and, in the case of a second or any subsequent conviction, within the space of three years next following a previous conviction for theft of stock or produce by imprisonment with or without hard labour for any period not exceeding two years or by corporal punishment in any number of lashes not exceeding thirty six or by both such imprisonment and such lashes: Provided, also, that no offender sentenced under this Act to imprisonment with hard labour for any period exceeding three months shall be placed at which he may be lawfully confined or employed: Provided, further, that in regard to the infliction of spare diet under this Act, the courts of Resident Magistrate shall, in their sentences observe and conform to such regulations and restrictions as shall from time to time be deemed necessary to prevent injurious consequences, and be by the Governor prescribed for the guidance of such court; and such courts shall, in their sentences, fix, in conformity with such regulations and restrictions, the particular days or times during which the offender shall be subject to spare diet.

Restrictions to be observed in infliction of spare diet.

Judgment for compensation and damages.

8. It shall be lawful for such court, upon the conviction of any person on a charge of theft of stock or produce, or upon his committal for trial on such charge, at the request of the owner or owners of the stock or produce, for the theft of which such person is so convicted or committed for trial, as aforesaid, or of the person authorised in writing by such owner or owners, to inquire summarily and without pleadings but in the presence of the accused person into the value of such stock or produce; and such court upon proof made to its satisfaction of the value of such stock or produce, and of any damages which the said owner shall have sustained by the loss of such stock or produce, or by the cost of a search for, or other endeavour to recover the same,

shall give judgment in favour of such owner and against the accused, for such value as aforesaid, together with such damages, if any, and such judgment shall be of the same force and effect, and be executable in the same manner, as if it had been given in a civil action duly instituted: Provided, that no such court shall give any such judgment as aforesaid in any case except one in which the proof of the guilt of the accused shall be such as would, in the opinion of such court, if given in a civil action founded upon the same theft, require such court to give judgment in favour of the owner and against the accused. And provided, also, that no Resident Magistrate shall give any such judgment for any sum exceeding forty pounds sterling: And provided, further, that no such judgment for such value shall be given in any case in which such stock or produce shall have been recovered by the owners before the conviction or committal for trial, as the case may be, of the accused person.

The proof to be such as would entitle the owner to a judgment in a civil action

Judgment not to exceed £40, except where animal recovered.

9. No such judgment as aforesaid shall be put in execution if the person convicted or committed for trial as the case may be shall give security to the satisfaction of such court, to pay the amount thereof should his conviction be confirmed by a judge, or should he be afterwards duly convicted when brought to trial, nor shall any such judgment be put into execution unless and until the owner of the said stock or produce shall give security, to the satisfaction of the Magistrate, to refund, in case he shall, by law, be required so to do, any sum of money which shall be levied under or upon such judgment, and to make good such damages, if any, as the accused person shall have sustained by the execution of such judgment.

Execution of civil judgment: Security.

10. If any conviction of any person who shall have given such security shall afterwards be quashed on appeal or review, or if any accused person who shall have given such security shall ultimately be acquitted of the theft in regard to which he was committed, then the judgment aforesaid shall be null and void: Provided, however, that nothing in this Act contained shall deprive the owner of the stock or produce aforesaid of any right of civil action which he may, by law, be entitled to have or maintain, notwithstanding the quashing of such sentence or such acquittal, against the person so convicted or committed for trial.

In case of acquittal where security shall have been given, judgment to be void.

Right of civil action reserved to owner.

11. As often as any such judgment as aforesaid shall have been put into execution and the conviction be quashed on appeal or review by a judge, or in the case of a committal for trial, the person committed be ultimately acquitted or discharged, then the court by or before which the person accused shall have been convicted or committed for trial, as the case may be, shall upon application of, or on behalf of, such person, give judgment, summarily and without pleadings, for such sum as shall have been levied under such execution, and such damages, if any, as referred to in section nine unless it shall be found by such court upon considering the evidence in the criminal case, and any other evidence which may be given by the owner aforesaid and the person acquitted, or either of them, that, upon grounds of law, applicable to the decision of civil actions, the said owner was and is *prima facie* entitled to have and retain such judgment as aforesaid against the person acquitted, notwithstanding such acquittal.

Procedure where civil judgment has been put into execution and conviction quashed, or criminal proceedings abandoned

12. In case the value of any stock or produce with the theft of which any person shall be charged, and the amount of such damages as aforesaid, shall not sufficiently appear upon the depositions taken on the preparatory examination or at the trial, and further proof of such value or such damages shall be tendered on the part either of the owner or of the accused, such further proof shall be taken down in writing, and shall by such Magistrate be preserved.

Further proof as to value of stolen animals.

13. As often as any charge of theft of stock or produce, in regard to which any such judgment as aforesaid shall have been given by any Resident Magistrate, shall be tried in the Supreme or any Circuit Court, it shall be the duty of the Resident Magistrate who gave such judgment to deliver, or cause to be delivered to the Registrar of such court a copy of such further proof, if any, of value and damages as such Magistrate shall have taken, over and above the preparatory examination, together with a statement of the date and amount of the said judgment, as also a statement of the amount, if any, levied thereupon, and the said Registrar shall keep, during, or immediately after the trial, lay the same before the presiding judge for his inspection.

When criminal case tried in Superior Court, Magistrate must transmit to Registrar particulars of civil judgment.

14. In case any such owner as aforesaid shall not have obtained from the committing Magistrate any such judgment as aforesaid, and the prisoner committed for trial be afterwards convicted, before the Supreme or any Circuit Court, then the judge before whom such conviction shall have taken place shall upon the like request as that in the eighth section of this Act mentioned, but in the presence of the prisoner, give judgment summarily, and without pleadings, into the value and damages therein referred to, and give judgment for the same, and such judgment shall be of the same force and effect, and be executable in the same manner, as if it had been given in a civil action duly instituted.

Where magistrate has given no judgment for value of stolen animal, such judgment may be obtained from the court of criminal jurisdiction



Where case is remitted to magistrate for trial, the particulars as to judgment for value of stolen animals is to accompany his record of proceedings.

15. Should any case in which any such judgment as aforesaid shall have been given by any Resident Magistrate be afterwards remitted to the court of such Resident Magistrate, such Magistrate shall, in forwarding the record of the proceedings in such case to the Registrar of the Supreme Court, to be laid before a Judge in Chambers for his consideration, forward with such record the same particulars regarding such judgment as such Magistrate is, under and by virtue of the thirteenth section of this Act, enjoined to deliver, or cause to be delivered, in cases in which the person accused is tried in the Supreme or any Circuit Court.

Judgment given for value of stolen property to become void where Attorney-General declines to prosecute unless security for private prosecution is given.

16. If, in any case, the Attorney-General, upon considering the preparatory examination, shall decline to prosecute any person against whom the committing Magistrate shall have given judgment under this Act, then such person shall nevertheless be discharged within the meaning of section eleven, unless the person in whose favour such judgment shall have been pronounced shall within a time to be fixed give security as a private prosecutor to the satisfaction of the Magistrate for the prosecution of the person accused, and unless the accused person shall be so prosecuted and convicted within a further time to be fixed by the Magistrate; and if such conviction shall be quashed on appeal or review, the provisions of section eleven shall also apply.

Value of stolen property recoverable from one or more persons concerned in theft.

17. As often as more persons than one shall be convicted of the theft of any stock or produce, or committed for trial on any charge of such theft, then any such judgment as may be given for value and damages, or value without damages, by any Magistrate or Judge against such persons jointly, shall be deemed to be joint and several, and may be executed against the property of any one or more of the persons who shall have been so convicted or committed for trial: Provided that it shall be lawful to give judgment against any one or more of such persons without including in that judgment any of the other persons convicted or committed for trial for or in regard of the theft of the same stock or produce; and provided that no person against whom such judgment has been pronounced shall in any case recover under section ten or eleven of this Act more than the amount levied against himself in satisfaction of such judgment, together with any damages awarded to him under section nine.

Owner not obliged to apply for judgment, but may proceed by civil action. If damages exceed £40, owner may sue for excess.

18. Nothing in this Act contained shall be construed so as to oblige any owner of any such stock or produce to apply for any such judgment as aforesaid, or to deprive him of any right of civil action which he may have against the accused person for an account of such stock or produce; nor shall the fact of having obtained from any Resident Magistrate a judgment for the sum of forty pounds, prevent the owner who obtained such judgment from suing in any competent court for any damages by him sustained over and above the said sum of forty pounds: nor shall the fact of judgment under section ten or eleven bar any civil action by the owner who has lost the stock or produce forming the subject of the charge.

Magistrate may in certain cases empowered to commence preparatory examination.

19. As often as any charge of the theft of stock or produce shall be brought under the notice of any Resident Magistrate, which charge shall from its nature or magnitude appear to such Magistrate to be unfit to be disposed of under the limited jurisdiction conferred by this Act, it shall be lawful for such Magistrate, instead of proceeding to try the case under this Act, to commence and take a preparatory examination, in like manner precisely as if this Act had not been passed: Provided that if the Attorney-General, upon consideration of the preparatory examination, shall be of opinion that the evidence is such as to require that the prisoner shall be put upon his trial, and be of opinion also that the exercise of the jurisdiction conferred by this Act will satisfy the ends of justice, then and in that case the Attorney-General may remit the case for trial to the court of the Resident Magistrate by whom the preparatory examination was taken, and such court shall thereupon proceed to try the same in manner and form as in the twenty-ninth section of the Criminal Law Amendment Act, 1861, prescribed; and in case the prisoner shall be convicted, such court may pronounce upon him any sentence to which he might have been subjected under this Act, in case he had been tried under this Act without any preparatory examination having been taken: and provided that nothing herein contained shall be deemed to deprive the Attorney-General of any power to remit such cases which may at any time be vested in him by law independently of this section.

Magistrate may stop trial and turn proceedings into preparatory examination.

20. When, in the course of any trial under this Act in any court of any Resident Magistrate, it shall appear to the Resident Magistrate, from the facts disclosed by the evidence, that the case is one which from its nature or magnitude is unfit to be disposed of under the limited jurisdiction conferred by this Act, it shall be lawful for such court to stop the trial, and to take, or turn proceedings into, a preparatory examination; and thereupon all and singular the provisions of the last preceding section shall apply to such preparatory examination, precisely as if such trial as aforesaid had never been commenced.

21. It shall be lawful for any court empowered to pass sentence on any person, for the offence of theft of stock or produce, to impose upon such offender, in addition to such sentence, a fine not exceeding in amount ten times the value of the stock or produce for the theft of which such offender shall be then and there sentenced, such fine, if not paid, to be levied on the movable property of the offender under and by virtue of a warrant under the hand of the Judge or Magistrate imposing such fine, together with the cost of such levy. The amount of such fine when paid or levied shall be paid into the public treasury; and it shall and may be lawful for the Governor, upon the recommendation of the Judge or Magistrate who shall have tried the case, out of the amount so paid or levied as aforesaid, to make restitution, in whole or in part, to the owner of the stock or produce with regard to the theft of which such sentence shall have been passed, of the value of such stock or produce, and further to reward any person or persons, not being himself or themselves concerned in the theft, or accessory thereto, who may have given such information as to lead to the apprehension or conviction of the offender or to the recovery of the stolen stock or produce; and when and as often as any such fine as aforesaid shall be imposed by a Resident Magistrate, such Resident Magistrate shall forward the record of the proceedings in the said case to the Registrar of the Supreme Court, in order that the sentence may be reviewed by one of the judges, and such judge may reduce or disallow the same, as shall seem to him to be most in accordance with real and substantial justice; and in every case in which such record shall have been so forwarded as aforesaid, the warrant shall be executed by immediately attaching sufficient goods as aforesaid to answer the fine imposed by such Magistrate in the first instance, but such goods shall not be sold to realise the amount of such fine until the sentence shall have been finally approved or amended by such judge as aforesaid, and then only so much thereof shall be sold as shall probably be necessary to produce the amount of such fine as shall ultimately be imposed, together with the costs of levy, as aforesaid.

If any fine in this section mentioned be paid when imposed by any Resident Magistrate, and be afterwards reduced or disallowed as aforesaid, the amount by which the same shall be reduced, or the amount of such fine, as the case may be, shall be refunded to the person who shall have paid the same.

22. Any person who shall, by way of purchase, bargain, exchange or gift, acquire or receive into his possession, from any other person, any stolen stock, or stolen produce, without guilty knowledge that the said stock or produce is stolen but without having reasonable cause, proof of which shall lie on such first-mentioned person, for believing, at the time of such acquisition or receipt, that such stock or produce was the property of the person from whom he received it, or that such person was duly authorised by the rightful owner to deal with or dispose of it, shall be deemed guilty of contravening this section, and shall be liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and such imprisonment.

23. The provisions of section twenty-two of this Act shall not apply to stock or produce purchased—

- (a) On any public market.
- (b) At any sale held by a duly licensed auctioneer, or held in pursuance of the order of a court of competent jurisdiction.

24. It shall be lawful for any Judge or Magistrate passing any sentence and imposing any fine under any provision of this Act, at the time of passing such sentence and imposing such fine, to order that, if at the expiration of such sentence such fine shall not have been paid or recovered, and shall not have been disallowed on appeal or review as in the said section mentioned, the person convicted shall be imprisoned for a further period not exceeding six months.

25. Any person who enters any farm, or part of a farm enclosed on all sides with a sufficient fence, and whether such entry shall be affected by breaking through such fence or not, or any kraal, with intent to steal any stock which is in or upon such kraal, farm, or part of a farm, shall be liable upon conviction to imprisonment with or without hard labour for a period not exceeding one year, or to a fine not exceeding one hundred pounds, or to both such fine and such imprisonment.

26. Any person found within any farm, or part of a farm enclosed on all sides with a sufficient fence, or within any kraal, and who when so found was not proceeding along some road or thoroughfare traversing such farm or part of a farm, shall, if charged with a contravention of section twenty-five of this Act, have the burden imposed upon him of proving that he did not enter such kraal, farm, or part of a farm with intent to steal the stock, if any, kept therein.

27. Any person charged with the theft of stock from any kraal, farm, or part of a farm, may at the same time be charged with a contravention of the twenty-fifth section of this Act; and upon conviction shall be separately sentenced in regard to each offence.

Fine.

Disposal of fine.

Fine imposed by Resident Magistrate subject to review by Supreme Court.

Goods attached to satisfy fine not to be sold before confirmation of sentence.

In case of reduction or disallowance of fine refund to be made.

Possibly on purchase or receipt of stolen stock or produce without reasonable belief that vendor had right to sell.

Transactions excepted from operation of preceding section.

Imprisonment upon failure to pay fine.

Penalty for entry upon enclosed place with intent to steal stock.

Presumptive evidence of intent to steal.

When a person enters upon enclosed place with intention to steal, may be charged in same indictment.



Suspected person may be apprehended without warrant.

28. If there be reasonable grounds for believing that any person is or has been in unlawful possession of any stock or produce, it shall be competent for any justice of the peace, field-cornet, landholder, or police constable to apprehend or cause to be apprehended such person without warrant, and convey him or cause him to be conveyed in custody before any Resident Magistrate having jurisdiction, and if it be found that he is or has been in possession of any such stock or produce, and is not able to give a satisfactory account of such possession to such Magistrate, he shall be deemed to be guilty of the crime of theft of stock or produce and shall thereupon be dealt with as if he had originally been charged with such crime.

Sacks, &c., of persons suspected to be conveying wool &c., may be searched and persons apprehended without warrant.

29. If any person is reasonably suspected to have in any sack, knapsack, or other covering, any produce or the carcasses, or portions of carcasses, of slaughtered stock, it shall be lawful for any justice of the peace, field-cornet, landholder, or police constable to detain or cause to be detained such person and examine or cause to be examined the contents of such sack, knapsack, or other covering, and in case such person shall, upon such examination, be found to be in possession of any of the articles aforesaid, it shall be lawful for such justice of the peace, field-cornet, landholder, or police constable to apprehend him or cause him to be apprehended without warrant and to convey him or cause him to be conveyed before any Magistrate having jurisdiction, and in case he shall be unable to give a satisfactory explanation of such possession to such Magistrate, he shall be deemed to be guilty of the crime of theft of stock or produce and shall be thereupon dealt with as if he had been originally charged with such crime.

If unable to give explanation to be deemed guilty of theft.

On charge of theft when court or jury satisfied that prisoner had no guilty knowledge, if it is found that stock was stolen.

30. Any person charged with theft of stock or produce in accordance with either of the last two sections may, if the court or jury before whom he is tried be satisfied that he had no guilty knowledge that the stock or produce forming the subject of the charge was stolen, be dealt with in all respects as though he stood charged with a contravention of section twenty-two of this Act.

Payment to person who gives information leading to a conviction.

31. Upon the conviction of any person for an offence under this Act it shall be lawful for the Governor, out of such funds as may from time to time be appropriated to the carrying out of the Criminal Law of the Colony, or as may be at the disposal of the Governor for that purpose, to pay to the person other than the owner of stolen property forming the subject of the charge who shall have given information or made the charge leading to such conviction as aforesaid such sum as the Governor shall direct, or as shall be provided for by a tariff to be published in the *Gazette*.

Penalty for wrongful arrest.

32. Any person who shall, under colour of this Act, wrongfully and maliciously, or without probable cause, apprehend any other person, or cause him to be apprehended, shall be liable to pay a fine not exceeding twenty pounds, and to pay to the apprehended person such amount, not exceeding the sum of fifty pounds, as and for damages, as the Magistrate before whom such apprehended person is brought for trial shall award, and in default of payment of the fine shall be liable to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine shall be sooner paid. Provided that nothing in this section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy given him by law in lieu of the remedy by this section given.

Persons authorised to search buildings, &c., for stolen stock or produce.

33. Notwithstanding the provisions of section forty-two of Ordinance No. 10 of 1828, it shall be lawful for any justice of the peace, field-cornet, assistant field-cornet, or for any police officer of such rank as the Governor may from time to time designate, upon being satisfied that there is reason to suspect that any stolen stock or stolen produce is concealed in any building, hut, kraal or enclosure, to search or to grant written authority to any person applying for the same, to search such building, hut, kraal or enclosure at any time during the day or night. Provided that any landowner shall in respect of building or huts upon his own land be entitled to exercise all the powers conferred by this section upon the officers hereinbefore mentioned.

Penalty for malicious exercise of authority to search.

34. Any person who shall, under colour of this Act, wrongfully and maliciously, or without probable cause, apply for, obtain, and act upon such written authority as aforesaid, or wrongfully and maliciously, or without probable cause exercise the powers of search conferred by the last preceding section, shall be liable to a fine not exceeding twenty pounds, or in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months; and shall also be liable to pay to the person lawfully in occupation of the building, hut, kraal or enclosure in question, when the same was searched, such sum not exceeding fifty pounds for damages as any competent court may award.

Damages

Resident Magistrate to impose penalty and award damages.

35. The Resident Magistrate of the district in which any building, hut, kraal or enclosure wrongfully searched as aforesaid is situated shall have jurisdiction to impose the penalty and to award the damages in the last preceding section provided. But nothing in this or the last preceding section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy allowed by law in lieu of the remedy under this Act.

Proviso

36. It shall not be lawful for any person to purchase or sell for purposes of trade, any produce between the hours of sunset and sunrise: Provided, however, that this prohibition shall not apply to any person purchasing or selling produce at any public sale.

37. Any person contravening the provisions of the preceding section of this Act shall, upon conviction, be liable to a penalty of not exceeding twenty pounds, or to imprisonment with or without hard labour not exceeding three months.

38. The provisions of the two preceding sections shall not apply to any contract for the purchase and sale of produce where the purchase price paid or agreed to be paid for the said produce shall amount in value to the sum of fifty pounds sterling or upwards.

39. The three last preceding sections of this Act shall only apply to and be in force in those divisions of this Colony wherein the provisions of the Act No. 13 of 1885 shall be in force at the date of the passing of this Act, or which shall from time to time be notified by the Governor by Proclamation published in the *Gazette*, and the Governor shall be authorised to publish any such Proclamation at the request of the Divisional Council of any division, and, by the like request, to revoke or alter any such Proclamation: Provided that, before any Divisional Council shall make any such request as aforesaid, three-fourths of the elected members thereof present at a meeting to be specially called for the making of such request shall concur in making the same, and not less than three months' notice of such meeting, and of the object thereof, shall have been given by advertisement in some newspaper circulating in the division.

40. This Act may be cited for all purposes as "The Stock and Produce Theft Repression Consolidation Act, 1893."

Purchase of feathers, skins, or hides between sunset and sunrise for public sale.  
Penalty for contravention of foregoing section.

Not to apply to contract of sale where price not less than £50

Secs. 36, 37 and 38 to be in force in any division upon proclamation after request of Council by vote of three-fourths at special meeting.

Short title.

## SCHEDULE.

Schedule,

### LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Act 16 of 1864	The Cattle Theft Repression Act, 1864.	So much as remains unrepealed.
Act 9 of 1867	An Act to amend the Law relating to the Trial and Punishment of Criminals for Theft and for receiving Stolen Goods knowing the same to have been stolen.	Sections 2, 3 and 4.
Act 17 of 1867	The Cattle Theft Repression Amendment Act, 1867.	The whole.
Act 17 of 1874	The Criminal Law Amendment Act, 1874.	Section 1.
Act 21 of 1876	The Resident Magistrates' Court Act, 1876.	The words between "1856" and "shall" in the 2nd and 3rd lines of the fourth section and the whole of the sixth section.
Act 18 of 1879	The Cattle Thefts Extended Punishment Act, 1879.	The whole.
Act 52 of 1883	The Ostrich Feathers and Skins Theft Repression Act, 1883.	Sections 5, 6 and 7.
Act 19 of 1884	The Wool, Mohair and Carcases Theft Repression Act, 1884.	The whole.
Act 13 of 1885	The Ostrich Feathers and Skins Theft further Repression Act, 1885.	The whole.
Act 53 of 1891	The Stock and Produce Theft Repression Act, 1891.	The whole.

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
) -----

WHEREAS it is expedient to proclaim a certain portion of land in Swaziland to be Crown Land;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 and by virtue of the further authority conferred upon me under Swaziland Crown lands and Minerals Order-in-Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order-in-Council 1910, I do hereby declare proclaim and make known as follows:

The area of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Land and shall be registered and known as Lot No.4, District Mbabane (South) Mankaiana, Swaziland; provided always that the Proclamation of the said area as Crown Land shall not affect any Concession lease servitude or other right subsisting in respect of the said area which is registered at the date of such publication and is not vested in the Crown.

G O D   S A V E   T H E   K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *first* day of *January* One thousand  
Nine hundred and Twelve.



High Commissioner.

By Command of His Excellency  
the High Commissioner.

Imperial Secretary.



## SCHEDULE

Portion of land held under Land Concession No. 8 P.  
situate in District Mbabane (South) Mankaisana,  
Swaziland, in extent 7410 morgen 151 square roods,  
as shewn on diagram S.G. No.8.19/10 confirmed by the  
Surveyor General by the figure B.C.D. mid spruit T.S,  
mid river F mid river P,Q,R mid river N, mid river O,  
mid river junction A mid spruit B.

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Annexed

## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by Order in Council of His Majesty's Council, entitled the Bechuanaland Protectorate Order, 1911, dated the twenty-third day of January 1911 and hereunto annexed it is provided that the said Order shall come into operation on a day to be fixed by the High Commissioner.

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known that the said Order of His Majesty in Council shall come into operation on the thirteenth day of February 1912.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Ninth day of February One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

AT THE COURT AT WINDSOR CASTLE,  
The 23rd day of January, 1911.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY IN  
COUNCIL.

WHEREAS by treaty, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction over the territory of Africa now known as His Majesty's Protectorate of Bechuanaland (in this Order referred to as the Protectorate):

And whereas it appears to His Majesty to be desirable to make provision respecting the currency of the Protectorate:

Now, therefore, His Majesty, in pursuance of the powers vested in Him by the Foreign Jurisdiction Act, 1890, and of any powers otherwise vested in Him, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. (1) All British coins and all Transvaal coins shall be current in the Protectorate, and the tender of payment of money in the Protectorate, if made in any of those

coins, shall, if the coins have not been illegally dealt with, and have not been called in under the authority of the High Commissioner, and, in the case of British gold coins, have not become diminished in weight by wear or otherwise so as to be of less weight than the weights specified as the least current weight in the First Schedule to the Coinage Act, 1870, or, in the case of Transvaal gold coins, have not become diminished in weight by wear or otherwise so as to be of less weight than that prescribed under article eight of a law of the late South African Republic, known as Law No. 14 of 1891, be a legal tender—

In the case of gold coins, for payment of any amount;

in the case of silver coins, for payment of an amount not exceeding forty shillings;

in the case of bronze coins, for payment of an amount not exceeding one shilling:

For the purpose of this provision, the expression "British coins" means any coins which under the Coinage Acts, 1870 and 1891, are legal tender in the United Kingdom; and the expression "Transvaal coins" means any coins which were coined in the Mint established at Pretoria by the Government of the said South African Republic in accordance with the provisions of the said Law of the said Republic.

(2) Every contract, sale, payment, bill, note, instrument, and security for money, and every transaction, dealing, matter, and thing whatever relating to money, or involving the payment of or the liability to pay any money,

Full, in the absence of express agreement to the contrary, to hold to be made, issued, coined into, done or had in the Protectorate according to the coins which are current and legal tender in pursuance of this Order.

2. (1) For the purpose of this Order, a coin shall be deemed to have been illegally dealt with where the coin has been repaired, diminished, or lightened, otherwise than by fair wear and tear, or has been defaced by leaving any name, word, device, or number stamped or engraved thereon, whether or not the coin has or has not been thereby diminished or lightened.

(2) Any coin which has been illegally dealt with, or is below the least current weight, or which has ceased to be legal tender in the Union of South Africa may be collected, cancelled, or destroyed under the authority of the High Commissioner, in accordance with such regulations as the High Commissioner may make.

3. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

4. (1) This Order may be extended to the Bechuanaland Protectorate (Coinage) Order, 1911.

(2) This Order shall come into operation in the Protectorate on such day as may be fixed by the High Commissioner by Proclamation.

And the Lords Commissioners of His Majesty's Treasury and the Right Honourable Lewis Harcourt, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein.

ALMERIC FITZROY.

(Printed by the Government Printer, Pretoria.)

# PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS by clause *four* of an Order of His Majesty in Council, entitled the Swaziland (Coinage) Order 1911, dated the twenty-third day of January 1911 and hereunto annexed it is provided that the said Order shall come into operation on a day to be fixed by the High Commissioner.

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known that the said Order of His Majesty in Council shall come into operation on the thirteenth day of February 1912.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Ninth day of February One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

AT THE COURT AT WINDSOR CASTLE,  
The 23rd day of January, 1911.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY IN  
COUNCIL.

WHEREAS by treaty, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction over the territory of Africa now known as Swaziland (in this Order referred to as the Protectorate):

And whereas it appears to His Majesty to be desirable to make provision respecting the currency of the Protectorate:

Now, therefore, His Majesty, in pursuance of the powers vested in Him by the Foreign Jurisdiction Act, 1890, and of any powers otherwise vested in Him, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. (1) All British coins and all Transvaal coins shall be current in the Protectorate, and the tender of payment of money in the Protectorate, if made in any of those coins, shall, if the coins have not been illegally dealt with, and have not been called in under the authority of the High Commissioner, and, in the case of British gold coins, have not become diminished in weight by wear or otherwise so as to be of less weight than the weights specified in the least current weight in the First Schedule to the Coinage Act, 1870, or, in the case of Transvaal gold coins, have not become diminished in weight by wear or otherwise so as to be of less weight than that prescribed under article *eight* of a law of the late South African Republic, known as Law No. 14 of 1891, be a legal tender—

In the case of gold coins, for payment of any amount;

in the case of silver coins, for payment of an amount not exceeding forty shillings;

in the case of bronze coins, for payment of an amount not exceeding one shilling:

For the purpose of this provision, the expression "British coins" means any coins which under the Coinage Acts, 1870 and 1891, are legal tender in the United Kingdom; and the expression "Transvaal coins" means any coins which were coined in the Mint established at Pretoria by the Government of the said South African Republic in accordance with the provisions of the said Law of the said Republic.

(2) Every contract, sale, payment, bill, note, instrument, and security for money, and every transaction, dealing, matter, and thing whatever relating to money, or involving the payment of or the liability to pay any money, shall, in the absence of express agreement to the contrary, be held to be made, executed, entered into, done, or had in the Protectorate according to the coins which are current and legal tender in pursuance of this Order.

ACKNOWLEDGED

2. (1) For the purpose of this Order, a coin shall be deemed to have been illegally dealt with where the coin has been impaired, diminished, or lightened, otherwise than by fair wear and tear, or has been retailed by having any name, word, device, or number stamped or engraved thereon, whether or not the coin has or has not been thereby diminished or lightened.

(2) Any coin which has been illegally dealt with, or is below the least current weight, or which has ceased to be legal tender in the Union of South Africa may be called in, cut, broken, or defaced under the authority of the High Commissioner, in accordance with such regulations as the High Commissioner may make.

3. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

4. (1) This Order may be cited as the Swaziland (Coinage) Order, 1911.

(2) This Order shall come into operation in the Protectorate on such day as may be fixed by the High Commissioner by Proclamation.

And the Lords Commissioners of His Majesty's Treasury and the Right Honourable Lewis Harcourt, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein.

ALMERIC FITZROY.

(Printed by the Government Printer, Pretoria.)

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## PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS it is expedient to consolidate and amend the law in force in Swaziland relating to the incorporation, registration, and winding-up of companies and other associations;

Now therefore under and by virtue of the powers conferred upon and committed to His Majesty under the Swaziland Order-in-Council 1909 I do hereby proclaim and enact as follows:—

1. The laws and resolutions mentioned in the First Schedule to this Proclamation shall be and are hereby repealed in so far as they are in force in Swaziland to the extent set forth in the third column of that Schedule, together with so much of any other law as is repugnant to or inconsistent with the provisions of this Proclamation.

2. In this Proclamation, unless inconsistent with the context,

"articles" shall mean the articles of association of a company as originally framed, or as altered by special resolution, and shall include, so far as they apply to a company, the regulations set forth in the Fourth Schedule to this Proclamation;

"books or papers" and "books and papers" shall include accounts, deeds, writings, and other documents;

"commencement of this Proclamation" shall mean the date on which this Proclamation came into operation;

"Commissioner" shall mean the Resident Commissioner of Swaziland.

"company" shall mean a limited or unlimited company which is incorporated and registered under Chapter I of this Proclamation, and shall include every company to which, by Chapter VI, this Proclamation is expressed to apply;

"debenture" shall include debenture stock;

"director" shall include any person occupying the position of director or alternate director of a company, by whatever name he may be called;

"extraordinary resolution" shall mean a resolution passed at a general meeting of a company in accordance with the provisions of sub-section (1) of section sixty-seven;

"foreign company" shall mean a company or other association of persons whose objects are for its objects the acquisition of property by the company or association, or by the individual members thereof, and is registered or incorporated in a foreign country under the laws of that country;

"foreign country" shall mean any state, country, colony, or territory, other than Swaziland, whether the same is or is not a British Possession or British Protectorate;

"Gazette" shall mean the *Official Gazette of the High Commissioner*;

"High Commissioner" shall mean His Majesty's High Commissioner for South Africa, or the person for the time being acting in that capacity;

"imprisonment" shall mean imprisonment with or without hard labour, as any competent court which passes sentence may determine;

"limited company" shall mean a company having the liability of its members limited by the memorandum of association to the amount (if any) unpaid on the shares respectively held by them;

"Master" shall mean the Master of the Court of Resident Commissioner or the Special Court of Swaziland or any person lawfully acting in that capacity;

"memorandum" shall mean the memorandum of association of a company, as originally framed or as altered in pursuance of the provisions of this Proclamation;

"prescribed fee" shall mean the fee mentioned in the Second Schedule to this Proclamation, or in that Schedule as altered under the powers of this Proclamation, as the fee payable in respect of any particular matter;

"prescribed form" shall mean a form set forth in the Third Schedule to this Proclamation, or any form added to or altered in that Schedule under the powers of this Proclamation;

"private company" shall mean a company which by its articles

(a) restricts the right to transfer its shares; and

(b) limits the number of its members (exclusive of persons who are in the employ of the company) to a number not exceeding fifty; and



(c) prohibits any invitation to the public to subscribe for any of its shares or debentures;

where two or more persons hold one or more shares in a company jointly, they shall be deemed for the purposes of paragraph (b) of this definition to be one member;

"prospectus" shall mean any prospectus, notice, circular, or advertisement, inviting the public to subscribe for or purchase any of the shares or debentures of a company, or any direct or indirect invitation to the public to so subscribe or purchase;

"Registrar" shall mean the Registrar of Companies, or any person lawfully acting in that capacity;

"share" shall mean a share in the share capital of a company, and shall include stock, except where a distinction between stock and shares is expressed or implied;

"special resolution" shall mean a resolution passed at a general meeting of a company in manner provided by sub-section (2) of section sixty-seven;

"Table A" shall mean the table of regulations set forth in the Fourth Schedule to this Proclamation;

"the Court" shall mean the Court of the Resident Commissioner or the Special Court of Swaziland or any judge thereof;

"unlimited company" shall mean a company which has no limit on the liability of its members.

3. This Proclamation is divided into eight chapters relating to the following matters respectively:—

Chapter I.—Constitution and Incorporation.

Chapter II.—Distribution and Reduction of Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.

Chapter III.—Management and Administration.

Chapter IV.—Winding-up.

Chapter V.—Foreign Companies.

Chapter VI.—Application of Proclamation.

Chapter VII.—Winding-up of Unregistered Companies.

Chapter VIII.—Miscellaneous Provisions.

#### CHAPTER I.

##### CONSTITUTION AND INCORPORATION.

###### *Prohibition of Large Partnerships.*

4. (1) From and after the commencement of this Proclamation no company, association, syndicate, or partnership consisting of more than twenty persons shall be formed in Swaziland for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association, syndicate, or partnership, or by the individual members thereof, unless it is registered as a company under this Proclamation, or is formed in pursuance of some other law of Swaziland, or of Letters Patent, or Royal Charter.

###### *Memorandum of Association.*

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Proclamation in respect of registration, form an incorporated company with or without limited liability (that is to say), either

- (1) a company having the liability of its members limited by the memorandum to the amount (if any) unpaid on the shares respectively held by them; or
- (2) a company not having any limit on the liability of its members.

6. In the case of a limited company—

- (1) The memorandum shall state
  - (i) the name of the company with "limited" as the last word in its name;
  - (ii) the place in Swaziland in which the registered office of the company is to be situate;
  - (iii) the objects of the company;
  - (iv) that the liability of the members is limited;
  - (v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount.

(2) No subscriber of the memorandum may take less than one share.

(3) Each subscriber shall write opposite to his name the number of shares he takes.

7. In the case of an unlimited company:—

- (1) The memorandum shall state
  - (i) the name of the company;
  - (ii) the place in Swaziland in which the registered office of the company is to be situate;
  - (iii) the objects of the company.
- (2) If the company has a share capital—
  - (i) no subscriber of the memorandum may take less than one share;
  - (ii) each subscriber shall write opposite to his name the number of shares he takes.

8. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature, and shall, in attesting, state his occupation and address.

9. A company may not alter the conditions contained in its memorandum except in the cases and in the mode, and to the extent for which express provision is made in this Proclamation.

10. (1) A company may not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires.

(2) A company may not be registered by a name calculated to cause annoyance or offence to any person or by a name suggestive of blasphemy or indecency.

(3) A company may not, without the consent of the High Commissioner, be registered by a name which includes the words "Imperial", "Royal", "Crown", "Empire", "Government", or any other word which imports or suggests that it enjoys the patronage of His Majesty, or of the High Commissioner, or of the Imperial or local Government.

(4) If a company, through inadvertence or otherwise, is registered in conflict with the provisions of sub-section (1) or sub-section (2) or sub-section (3) the company may, in the circumstances described in sub-section (1), with the sanction of the Registrar, change its name, and shall, in the circumstances described in sub-section (2) or sub-section (3), change its name.

(5) Any company may, by special resolution and with the approval in writing of the Commissioner change its name.

(6) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(7) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Memorandum of association of company limited by shares

Memorandum of unlimited company

Signature of the subscriber of association

Restriction on alteration of memorandum of association

Name of company and nature of business

11. (1) Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it

(a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

(c) to enlarge or change the local area of its operations; or

(d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed on petition by the Court.

(3) Before confirming the alteration the Court shall be satisfied

(a) that sufficient notice has been given to every mortgagee and to every holder of debentures of the company, and to any person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has been determined, or has been secured to the satisfaction of the Court;

provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company may be expended in any such purchase.

(6) A certified copy of the order confirming the alteration, together with a copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the same, and shall certify the registration under his hand, and his certificate shall be conclusive evidence that all the requirements of this Proclamation with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which it is in default.

## Articles of Association.

12. (1) There may, in the case of a limited company, and there shall in the case of an unlimited company, be registered with the memorandum, articles of association prescribing regulations for the company.

(2) Articles of association may adopt all or any of the regulations contained in Table A.

(3) If an unlimited company has a share capital, the articles shall state the amount of share capital with which the company proposes to be registered.

(4) If an unlimited company has not a share capital, the articles shall state the number of members with which the company proposes to be registered.

13. In the case of a limited company if articles are not registered, or, if articles are registered in so far as the articles do not exclude or modify the regulations in Table A, those regulations shall so far as applicable be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

14. Articles shall—

(a) be divided into paragraphs numbered consecutively;

(b) be signed by each subscriber of the memorandum in the presence of at least one witness, who shall attest the signature, and shall, in attesting, state his occupation and address.

15. Subject to the provisions of this Proclamation and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

## General Provisions.

16. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member, and contained covenants on the part of each member, his heirs and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Proclamation.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

17. The memorandum and the articles (if any) together with a copy thereof certified by a notary public, or by two directors on oath, as a true copy, shall be transmitted or delivered to the Registrar. Upon payment to him of the prescribed fees the Registrar shall, if the memorandum and the articles (if any) are in accordance with this Proclamation or any amendment thereof, register the same by filling the certified copy, and shall return to the company the original memorandum and articles (if any) with the date of registration endorsed.

18. (1) Upon the registration of the memorandum of a company the Registrar shall certify under his hand that the company is incorporated, and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Proclamation.

19. (1) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Proclamation in respect

Registration  
of articles of  
association

Application  
of Table A

Form and  
signature of  
articles

Alteration  
of articles by  
special resolution

Effect of  
memorandum  
and articles

Registration  
of memorandum  
and articles

Effect of  
registration

Conclusive  
evidence of certificate of incorporation



of registration and of matters precedent and incidental thereto, have been complied with, and that the association is a company authorized to be registered and duly registered under this Proclamation.

(2) An affidavit or other solemn declaration made by an attorney of the court engaged in the formation of a company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, who may accept such affidavit or declaration as sufficient evidence of compliance.

20. (1) Every company shall send to every member, at his request on payment of two shillings and sixpence or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any) or shall afford to every member or to his duly authorized agent adequate facilities for making a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding one pound.

#### *Associations not for Profit.*

21. (1) Where it is proved to the satisfaction of the Commissioner that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits (if any), or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Commissioner may, by licence under his hand direct that the association be registered with limited liability, without the addition of the word "limited" to its name, and the association may be registered accordingly.

(2) A licence by the Commissioner under this section may be granted on such conditions and subject to such regulations as he may think fit, and those conditions and regulations shall be binding upon the association, and shall, if the Commissioner so direct, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall upon registration enjoy all the privileges of limited companies and be subject to all their obligations, except those of using the word "limited" as any part of its name, and of publishing its name, and of sending lists of its members, directors, and managers to the Registrar.

(4) A licence under this section may at any time be revoked by the Commissioner, and upon revocation the Registrar shall enter the word "limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section: Provided that before a licence is so revoked the Commissioner shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

#### CHAPTER II.

#### DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANIES AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

##### *Distribution of Share Capital.*

22. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by an appropriate number.

23. (1) A certificate under the hands of two directors and the secretary of the company, or, if there be only one director, under the hand of that director and of the secretary, specifying any shares or stock held by any member, shall be prima facie evidence of the title of the member to the shares or stock.

(2) Every certificate of vendors', promoters', founders', or management shares in a company shall, for a period of six months immediately succeeding the registration of the company, be distinguished as such by having the words "vendors' shares", "promoters' shares", "founders' shares" or "management shares" (as the case may be) conspicuously printed on the face of the certificate.

24. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and upon its registration shall be entered as members in its register of members.

Definition of "member".

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

25. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars:—

Register of members.

- (i) the names and addresses of the members, and in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number and by its class or kind, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (ii) the date at which each person was entered in the register as a member;
- (iii) the date at which any person ceased to be a member.

(2) If a company fails to comply with this section, it shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

26. (1) Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who, holding shares not fully paid up, ceased to be members since the date of the last return, or (in the case of the first return) of the incorporation of the company.

Annual list of members and summary.

(2) The list shall state the names and addresses of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or (in the case of a first return) of the incorporation of the company, by persons who are still members and who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided;
- (b) the number of shares taken from the commencement of the company up to the date of the return;
- (c) the amount called up on each share;
- (d) the total amount of calls received;
- (e) the total amount of calls unpaid;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return;
- (g) the total number of shares forfeited;
- (h) the total amount of shares or stock for which share warrants are outstanding at the date of the return;
- (i) the total amount of share warrants issued and surrendered respectively since the date of the last return;
- (j) the number of shares or amount of stock comprised in each share warrant;

(1) the names and addresses of the persons who at the date of the return are the directors of the company, or occupy the position of directors, by whatever name called; and

(2) the total amount of debt due from the company in respect of all mortgages and charges.

(3) The summary shall also (except where the company is a private company) include a statement, made up to such date as may be specified in the statement, in the form of a balance-sheet, audited by the company's auditors, and containing a summary of its share capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance-sheet need not include a statement of profit and loss.

(4) The said list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the fourteenth day aforesaid, and the company shall forthwith transmit to the Registrar a copy signed by the manager or by the secretary of the company.

(5) If a company makes default in complying with any requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary, or other officer of the company who, knowingly and wilfully, authorizes or permits the default shall be liable to the like penalty.

27. No notice of any trust, expressed, implied, or constructive, shall be entered on the register or be receivable by the Registrar.

28. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee and subject also to the law for the time being in force relating to stamp duty or duty upon estates of deceased persons;

Provided that no transfer of vendors', promoters', founders', or management shares in a company, nor any contract to transfer or dispose of any such shares shall be valid if made before the expiration of six months immediately succeeding the registration of the company.

29. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the date of the execution of the instrument of transfer, subject always to the law for the time being in force relating to stamp duty or duty upon the estates of deceased persons.

30 (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Proclamation, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member or his attorney *gratis*, and, except in the case of a private company, to the inspection of any other person on payment of two shillings and sixpence or such less sum as the company may prescribe, for each inspection.

(2) Any member and, except in the case of a private company, any other person may require the company to furnish him with extracts from such register, or from the list and summary required by this Proclamation, on payment of one shilling or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be extracted, or the company shall afford to any

member and, except in the case of a private company, to any other person or his duly authorized agent adequate facilities for making such extracts.

(3) If any inspection, extract, or facilities for making extracts, required under this section is refused, the company shall be liable for each refusal to a fine not exceeding two pounds and to a further fine not exceeding two pounds for every day during which the refusal continues and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the refusal shall be liable to the like penalty; and the court may by order compel an immediate inspection of the register or the furnishing of the extract or the affording of facilities for making the same.

31 A company may, upon giving notice by advertisement in the *Gazette* and a newspaper circulating in Swaziland, close the register of members for any time or times not exceeding in the whole sixty days in each year.

Power to close register.

32. (1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

Remedy for improper entry or omission of entry in register.

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) The application may be made by motion or in such other manner as the court may direct; and the court may either refuse the application, or may order rectification of the register, and payment by the company, or by any director, manager, secretary, or other officer of the company, of any damages sustained by any party aggrieved.

(3) On any application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for the rectification of the register.

(4) In the case of a company required by this Proclamation to transmit a list of its members to the Registrar, the court when making an order for the rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

33. The register of members shall be *prima facie* evidence of any matters by this Proclamation directed or authorized to be inserted therein.

Register to be evidence

34. (1) A company having a share capital, may, if so authorized by its articles, cause to be kept in any foreign country a register of members resident in that foreign country (in this Proclamation called a branch register).

Branch registers in foreign countries

(2) The company shall give to the Registrar notice of the situation of the office where any branch register is kept, and of any change in its situation, and of the discontinuance of the office in the event of its being discontinued.

35. (1) A branch register shall be deemed to be a part of the company's register of members (in this section called the principal register).

Register as to branch register

(2) It shall be kept in the same manner in which the principal register is by this Proclamation required to be kept, except that the advertisement before closing the register shall, for a reasonable time before the closing, be inserted in some newspaper circulating in the district wherein the branch register is kept.

(3) The company shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made; and shall cause to be kept at its registered office duly entered up from time to time,



a duplicate of its branch register, and the duplicate shall, for all the purposes of this Proclamation, be deemed to be part of the principal register.

(4) The company may discontinue to keep any branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company in the same foreign country, or to the principal register.

(5) Subject to the provisions of this Proclamation and of any law for the time being in force relating to stamp duty or to duty upon the estates of deceased persons, any company may, by its articles make such provisions as it may think fit respecting the keeping of branch registers.

36. (1) A limited company if so authorized by its articles, may, with respect to any fully paid-up shares, or to stock, issue a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Proclamation termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and such shares or stock may be transferred by the delivery of the share warrant.

(3) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the share warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the articles of the company so provide be deemed to be a member of the company within the meaning of this Proclamation, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified, in respect of the shares or stock specified in the warrant, for being a director or manager of the company, in cases where such a qualification is required by the articles.

(5) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

- (i) the fact of the issue of the warrant;
- (ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number; and
- (iii) the date of the issue of the warrant.

(6) Until the warrant is surrendered the said particulars shall be deemed to be the particulars required by this Proclamation to be entered in the register of members; and on the surrender the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

37. (1) If any person

- (i) with intent to defraud, forges or alters or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon issued in pursuance of this Proclamation; or by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid demands or endeavours to obtain or receive any share or interest in any company, or to receive any dividend or money payable in respect thereof, knowing the share warrant, coupon, or document to be forged or altered; or
- (ii) falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or

coupon issued in pursuance of this Proclamation, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner as if the offender were the true and lawful owner; he shall be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding ten years.

(2) If any person without lawful authority or excuse (the proof whereof shall lie upon him), engraves or makes upon any plate, wood, stone, or other material any share warrant, or coupon, purporting to be a share warrant, or coupon, issued or made by any particular company in pursuance of this Proclamation or to be a blank share warrant or coupon so issued or made, or to be a part of such a share warrant or coupon, or uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively, or knowingly has in his custody or possession any such plate, wood, stone, or other material he shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding ten years.

38. A company, if so authorized by its articles, may do any one or more of the following things, namely,

- (1) make arrangements on the issue of shares for a difference between classes of shareholders in the amounts and times of payment of calls on their shares;
- (2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up and, if the whole amount unpaid on any shares be paid, issue those shares as fully paid up;
- (3) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

39. (1) A limited company, if so authorized by its articles, may alter the conditions of its memorandum as follows (that is to say), it may

- (a) increase its share capital by the issue of new shares of such amount as it thinks expedient;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) convert all or any of its paid-up shares into stock, and reconvert such stock into paid-up shares of any denomination;
- (d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;
- (e) cancel shares which at the date of passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to sub-division of shares shall be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

If a company makes default in complying with this provision it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every

Power of company to arrange for different amounts being paid on shares.

Power of limited company to alter its share capital.



director and officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(4) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Proclamation.

40. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation and division, conversion, or reconversion specifying the shares consolidated and divided, or converted, or the stock reconverted, and until such notice is given the consolidation and division, conversion, or reconversion shall not take effect.

41. Where a company having a share capital has converted any of its shares into stock and given notice of the conversion to the Registrar, all the provisions of this Proclamation which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of the members of the company and the list of members to be transmitted to the Registrar shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares herein before required by this Proclamation.

42. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of members beyond the registered number, it shall give to the Registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation of the resolution authorizing the increase, and in the case of an increase of members within fifteen days after the increase was resolved upon or took place, notice of the increase of capital or members, and the Registrar shall record the increase, and the resolution shall not take effect until the increase is so recorded.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary, or other officer of the company who knowingly or wilfully authorizes or permits the default shall be liable to the like penalty.

43. (1) A limited company may, by special resolution confirmed by an order of the Court modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes:

Provided that no preference or special privilege attaching to or belonging to any class of shares shall be interfered with, except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all the shareholders of the class.

(2) Where an order is made under this section a certified copy thereof shall be lodged with the Registrar within seven days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such copy has been so lodged.

#### Reduction of Share Capital.

44. (1) Subject to confirmation by the Court, a limited company, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the power hereby conferred) may—

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(c) either with or without extinguishing or reducing the liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company;

and may, if and so far as is necessary alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Proclamation called a resolution for reducing share capital.

45. Where a company has passed and confirmed a resolution for reducing share capital, it may apply to the Court by petition for an order confirming the reduction.

46. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital then on and from the presentation of the petition for confirming the reduction the company shall add to its name, until such date as the Court may fix, the words "and reduced", as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company:

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced".

47. (1) Where the proposed reduction of share capital involves either the diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(3) Where a creditor entered on the list, whose debt or claim is not discharged or determined, does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing the payment of his debt or claim by appropriating, as the Court may direct, the following amount (that is to say)—

(i) if the company admits the full amount of his debt or claim, or though not admitting it, is willing to provide for it, then the full amount of the debt or claim;

(ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

48. The Court, if satisfied, with respect to every creditor of the company who under this Proclamation is entitled to object to the reduction, that either his consent to the reduction

Application to Court for confirmation order.

Addition to name of company of "and reduced".

Objections by creditors, and settlement of list of creditors entitled to object to reduction.

Order confirming reduction.

has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

49. (1) The Registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing with respect to the share capital of the company, as altered by the order, the amount of such capital, the number of shares into which it is to be divided the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration, and not before the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Proclamation with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

50. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be as valid and alterable as if it had been originally contained therein; and shall be embodied in every copy of the memorandum issued after its registration.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

51. A member of the company, past or present, shall not be liable, in respect of any share, to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount (if any) which is to be deemed to have been paid on the share and the amount of the share as fixed by the minute:

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or at their nature and effect with respect to his claim, not entered on the list of the creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Proclamation relating to winding-up by the Court, to pay the amount of his debt or claim, then

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and

(ii) if the company is wound up, the Court, on the application of any such creditor, and proof of his ignorance as aforesaid may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories among themselves.

52. If any director, manager, or officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any

director, manager, secretary or other officer of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment without the option of a fine, for a period not exceeding twelve months or to both such fine and such imprisonment.

53. In any case of reduction of capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

#### *Registration of Unlimited Company as Limited.*

54. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Proclamation as limited, but such registration as a limited company shall not affect any debts, liabilities, obligations, or contracts, incurred or entered into by, to, with, or on behalf of, the company before the registration.

(2) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Proclamation.

55. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Proclamation, do either or both of the following things, namely:—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares but subject to the condition that no part of the amount by which the share capital is so increased shall be capable of being called up, except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

#### *Reserve Liability of Limited Company.*

56. A limited company may, by special resolution, determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

#### *Unlimited Liability of Directors.*

57. (1) In a limited company the liability of the directors or managers, or of a managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company (if any) and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary (if any) of the company, or one of them shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

Proclamation  
of the  
reduction  
of share capital

Registration  
of an unlimited  
company as  
limited

Power of  
unlimited  
company to  
register for  
reduced share  
capital on  
registration

Reserve  
liability of  
limited com-  
pany.

Limited  
company may  
have directors  
with unlimited  
liability



(3) If any director, manager, or proposer makes default in adding such statement, or if any promoter, director, manager, or secretary makes default in giving such notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain by reason of the default, but the liability of the person elected or appointed shall not be affected by the default.

58. (1) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the confirmation of such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy of the special resolution shall be embodied therein or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

#### CHAPTER III.

#### MANAGEMENT AND ADMINISTRATION.

##### *Office and Name.*

59. (1) Every company shall have a registered office in this Territory to which all communications and notices may be addressed.

(2) Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar, who shall record the same. Until such notice is given the company shall not be deemed to have complied with this section.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding five pounds for every day during which it so carries on business.

60. (1) Every limited company

(a) shall paint or affix, and keep painted or affixed its name on the outside of every office or place in which its business is carried on in a conspicuous position, and in letters easily legible;

(b) shall have its name engraved in legible characters on its seal (if any);

(c) shall have its name mentioned in legible characters in all notices, advertisements and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(2) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Proclamation, it shall be liable to a fine not exceeding five pounds for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(3) If any director, manager, secretary or other officer of a limited company or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of the company or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note,

endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding fifty pounds, and shall further be liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

##### *Meetings and Proceedings.*

61. (1) A general meeting of every company shall be held once at least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company and every director, manager, secretary, and other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds.

(2) When default has been made in holding a meeting of the company in accordance with this section, the Court may on the application of any member of the company call or direct the calling of a general meeting of the company.

62. (1) Every limited company shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

(2) The directors shall, at least seven days before the day on which the meeting is held, transmit a report (in this Proclamation called "the statutory report") to every member of the company and to every other person entitled under this Proclamation to receive it.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(c) an abstract of the receipts of the company on account of its capital whether from shares or debentures, and of the payment made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(d) the names, addresses, and occupations of the directors, auditors, managers (if any), and secretary of the company; and

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be lodged with the Registrar forthwith after the transmission thereof to the members of the company.

(6) The directors shall cause a list showing the names and addresses of the members of the company and the number of shares held by them respectively, to be produced at the

Annual general meeting.

First statutory meeting of company.

commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles or with section sixty-five may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before, at, or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) If a petition is presented to the Court in manner provided by Chapter IV for winding up the company on the ground of default in lodging the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be lodged or for a meeting to be held, or make such other order as may be just.

(10) The provisions of this section as to the transmission and lodging of the statutory report shall not apply in the case of a private company.

63. (1) Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

(2) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If in the case of a meeting at which no extraordinary or special resolution is to be proposed, the directors of the company do not proceed to cause such a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(4) If at any meeting convened under this section an extraordinary or special resolution is to be proposed by one of the requisitionists, the period of notice of the meeting shall be given in accordance with the provisions of section sixty-five, provided that if the directors of the company do not proceed to call such meeting as is referred to in this sub-section to be held within three months from the date of the requisition being deposited the requisitionists or a majority of them in value may themselves convene the meeting but any meeting so convened shall not be held later than six months from the date of the deposit.

(5) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution, and, if thought fit, of confirming it as a special resolution; and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(6) Save as in sub-section (4) is provided, any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

64. Save as is otherwise provided by this Proclamation, the manner, time, and place of holding general meetings of a company (including the statutory meeting) and the regulation of proceedings at general meetings of a company shall be as provided by the articles.

65. (1) Anything to the contrary notwithstanding in the articles, no extraordinary or special resolution of a company, nor any act or thing done by a company or its directors requiring under this Proclamation the sanction of an extraordinary or special resolution, shall be valid unless notice, as in this section is prescribed, be given of the meeting at which the extraordinary or special resolution or act or thing requiring the sanction of such a resolution is to be proposed.

(2) If the registered address of any shareholder is outside Swaziland but in South Africa, notice of the meeting shall be published three weeks at least before the date fixed for the meeting in the *Gazette* and in a leading daily newspaper published in Johannesburg. If the registered address of any shareholder is outside South Africa, notice of the meeting shall be published two months at least before the date fixed for the meeting in a leading daily newspaper published in London. If the registered addresses of any shareholders are in one case within and in another case outside South Africa, the notice shall be published in all the publications herein described two months at least before the date fixed for the meeting.

(3) Nothing in this section shall be construed as preventing a company giving such a notice, in lieu of so publishing it, by prepaid registered post addressed to each member at his registered address.

(4) For the purposes of this section "registered address" shall mean the address given by the shareholder and registered in the books of the company as the address to which notices of meetings may be sent to him, but shall in no case (except where the shareholder is a director, manager, secretary, or officer of the company) be the address of the registered office of the company or of any branch register herein before described; and

"South Africa" shall include any part of Africa south of the Equator.

(5) Nothing in this section contained shall apply to a private company.

66. A company which is a member of another company may, by resolution of the directors, authorize any of its officers or any other person to act as its representative at any meeting of that other company, and the person so authorized shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

67. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than two-thirds of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice, specifying the intention to propose the resolution, and the general nature thereof, has been duly given, and at which members entitled in the aggregate to not less than one-fourth of the total votes of the company are present in person or by proxy (where proxies are allowed);

Provided that if less than one-fourth of the total votes be present at the meeting, it shall stand adjourned to the same day in the following week, or, if that day be a public holiday, to the next succeeding day other than a public holiday. At the adjourned meeting the members present in person or by proxy (where proxies are allowed) may deal with the business for which the original meeting was convened, and a resolution passed by not less than two-thirds of such members shall be deemed to be an extraordinary resolution notwithstanding that less than one-fourth of the total votes aforesaid be present.

Provisions  
as to meetings  
and votes

Notices to  
foreign share-  
holders in case  
of matters re-  
quiring the  
sanction of an  
extraordinary  
or special  
resolution.

Representa-  
tion of com-  
panies at  
meetings of  
other com-  
panies of which  
they are mem-  
bers

Extraordi-  
nary and  
special resolu-  
tions



(2) A resolution shall be a special resolution when it has been

(a) passed in manner required for the passing of an extraordinary resolution; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting or adjourned meeting as the case may be.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by a person or persons for the time entitled according to the articles to vote, and holding not less than one-sixtieth of the share capital represented at the meeting.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll regard shall be had to the number of votes to which each member is entitled by the articles of the company.

(6) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting shall be deemed to be duly held when the notice is given and the meeting held in manner provided by the articles, subject always, in the case of notice, to the provisions of section sixty-five.

68. (1) A copy of every special and extraordinary resolution shall within fifteen days from the confirmation of the special resolution, or from the passing of the extraordinary resolution (as the case may be), be transmitted to the Registrar, who shall record the same.

(2) Where articles have been registered a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be transmitted to any member at his request, on payment of one shilling or such less sum as the company may direct.

(4) If the company makes default in transmitting the copy of a special or extraordinary resolution to the Registrar, it shall be liable to a fine not exceeding two pounds for every day during which the default continues.

(5) If a company makes default in embodying or annexing to a copy of its articles or in transmitting to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding one pound for each copy in respect of which default was made.

(6) Every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

69. (1) Every company shall cause minutes of all proceedings of general meetings and where there are directors or managers) of its directors or managers to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of a meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had.

#### *Appointment, Qualifications, etc., of Directors.*

70. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of a company, or in relation to an intended company or in any statement in lieu of prospectus lodged by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the lodging of the statement in lieu of prospectus (as the case may be) he has by himself or by his agent authorized in writing

Restrictions of appointment or advertisement of director.

(i) signed and lodged with the Registrar a consent in writing to act as such director; and

(ii) either signed the memorandum of association for a number of shares not less than his qualification (if any), or signed and lodged with the Registrar a contract in writing to take from the company and pay cash for his qualification shares (if any).

(2) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and if this list contains the name of any person who has not so consented, the applicant and every person who knowingly and wilfully authorized or permitted the insertion in the list of the name of a person who has not so consented, shall be liable to a fine not exceeding fifty pounds.

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

71. (1) Without prejudice to the restrictions imposed by the last preceding section, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

Qualification of director.

(2) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(3) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

72. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

Validity of acts of director.

73. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar a copy thereof, and from time to time notify to the Registrar any change among its directors or managers.

List of directors to be sent to Registrar.

(2) If default is made in compliance with this section, the company shall be liable to a fine not exceeding five pounds for every day



during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

*(Contracts, etc.)*

74. (1) Contracts on behalf of a company may be made as follows (that is to say):—

(i) Any contract which if made between private persons would be by law required to be in writing, signed by the parties thereto or by their agents duly authorized in writing may be made on behalf of the company in writing signed by any person duly authorized thereto in writing by two directors acting *intra vires*, or, if there be only one director, by the director, acting *intra vires*, and the contract may in the same manner be varied or discharged.

(ii) Any contract which if made between private persons would by law be valid though made verbally only and not reduced to writing, may be made verbally on behalf of the company by any person acting under its authority, expressed or implied and may in the same manner be varied or discharged.

(2) All contracts made in accordance with this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs or legal representatives, as the case may be.

75. (1) A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

(2) All documents, other than the documents mentioned in this and the last preceding section, shall, if executed on behalf of a company, be signed as described in the last preceding section unless the articles otherwise provide.

76. A company may, by writing under the hands of two of its directors, or, if there be only one director, under the hand of that director and of the secretary, empower any person, either generally or in respect of any specified matters, as its agent, to execute deeds on its behalf in any foreign country; and every deed signed by such agent, on behalf of the company, shall bind the company.

77. (1) Any company which has a common seal and whose objects require or comprise the transaction of business in foreign countries may, if authorized by its articles, have for use in any foreign country an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of the foreign country where it is to be used.

(2) A company having such an official seal may, by writing under its common seal, authorize any person appointed for the purpose in any foreign country, to affix the same to any deed or other document to which the company is party in that foreign country.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and the place of affixing the same.

(5) A deed or other document to which such an official seal is duly affixed shall bind the company.

*Prospectus.*

78. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be lodged for registration with the Registrar on or before the date of the publication of the prospectus, and no such prospectus shall be issued until a copy thereof has been so lodged for registration.

(3) The Registrar shall not register any prospectus unless it is dated and the copy thereof signed in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been lodged for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so lodged, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so lodged.

79. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state

(a) the contents of the memorandum, with the names, occupations, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of vendors', promoters', founders', management, deferred, or other classes of shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company; and

(b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and

(c) the names, occupations, and addresses of the directors or proposed directors; and

(d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted; and

(e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued; and

(f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor; provided that where the

Lodging of prospectus with Registrar.

Specific requirements as to particulars of prospectus.

vendors or any of them are a partnership the members of the partnership shall not be treated as separate vendors; and

(g) the amount (if any) paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and

(h) the amount (if any) paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission; provided that it shall not be necessary to state the commission payable to sub-underwriters; and

(i) the amount or estimated amount of preliminary expenses; and

(j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment; and

(k) the date of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected; provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus; and

(l) the names and addresses of the auditors of the company; and

(m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or where the interest of a director consists in being a member of a partnership, the nature and extent of the interest of the partnership, with a statement of all sums paid or agreed to be paid to him or to the partnership in cash or shares or otherwise by any person, either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company; and

(n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred on the holders of the several classes of shares respectively;

(2) For the purposes of this section, every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where

(a) the purchase money is not fully paid at the date of the publication of the prospectus; or

(b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of a failure to comply with any of the requirements of this section, a director or other person responsible for the prospectus shall be liable to a fine not exceeding five hundred pounds in addition to any liability incurred by him civilly for such failure but he shall not incur any liability, civil or criminal, by reason of such failure if he proves that

(a) as regards any matter not disclosed, he was not cognisant thereof; or

(b) the failure arose from an honest mistake of fact on his part;

provided that in the event of a failure to comply with the requirements contained in paragraph (m) of sub-section (1) of this section no director or other person shall incur any liability, civil or criminal, in respect of such failure unless it be proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of the company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons, but, save as aforesaid, this section shall apply to any prospectus issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum, and the qualification, remuneration, and interest of directors, the names, occupations, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under this Proclamation apart from this section, or under any other statute, or under the common law.

80. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been lodged with the Registrar a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set forth in the Fifth Schedule to this Proclamation.

(2) This section shall not apply to a private company.

81. A company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

82. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved

Obligations of companies where no prospectus issued

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus

Liability for statements in prospectus



(a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures (as the case may be), believe, that the statement was true; and

(b) with respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation;

provided that the director, person named as director, promotor, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

(c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;

or unless it is proved

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(ii) that the prospectus was issued without his knowledge or consent and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(iii) that after the issue of the prospectus and before allotment thereunder, he on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company (except any without whose knowledge or consent the prospectus was issued) and any other person who authorized the issue thereof shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(4) For the purposes of this section

"promoter" shall mean a promotor who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

"expert" shall include an engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

#### Allotment.

83. (1) No allotment shall be made at any time of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely—

Restrictions as to allotment.

(a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the whole amount of the share capital offered for subscription; or

(b) if no amount is so fixed and named then the whole amount of the share capital so offered for subscription;

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Proclamation referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than ten per cent. of the nominal amount of the share.

(4) The amount paid on application shall be set apart by the directors as a separate fund and shall not be available for the purposes of the company or for the satisfaction of its debts until the minimum subscription has been made up.

(5) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and if any such money is not so repaid within sixty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per centum per annum from the expiration of the sixtieth day:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(6) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(7) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say)

(a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the share capital proposed to be issued other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash; or

(b) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash;

has been subscribed and an amount not less than ten per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

This sub-section shall not apply to a private company.

84. (1) An allotment made by a company to an applicant in contravention of the provisions of the last preceding section shall be voidable at the instance of the applicant within one

Effect of irregular allotment.

month thereafter, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of the last preceding section with respect to allotment, he shall be liable to a fine not exceeding one hundred pounds, and shall be further liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby; provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

85. (1) A company shall not commence business or exercise any borrowing powers unless

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and

(c) there has been lodged with the Registrar an affidavit or other solemn declaration made by the secretary or one of the directors that the conditions aforesaid have been complied with; and

(d) in the case of a company which does not issue a prospectus there has been lodged with the Registrar a statement in lieu of prospectus.

(2) The Registrar shall, on the lodging of this affidavit or solemn declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled;

Provided that, in the case of a company which does not issue a prospectus, the Registrar shall not give such a certificate unless a statement in lieu of prospectus has been lodged with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company.

86. (1) Whenever a limited company makes any allotment of its shares, the company shall within one month thereafter lodge with the Registrar

(a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names and addresses of the allottees, and the amount (if any) paid or due and payable on each share; and

(b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services

or other consideration in respect of which that allotment was made, and a return stating the number and nominal amount of shares so allotted; the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract is not reduced to writing the company shall, within one month after the allotment, lodge with the Registrar the prescribed particulars of the contract.

(3) If default is made in complying with the requirements of this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

Provided that in case of default in lodging with the Registrar within one month after the allotment any document required to be lodged by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to lodge the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the lodging of the document for such period as the Court may think proper.

#### *Commissions and Discounts.*

87. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if the payment of the commission is authorized by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate per cent. of the commission paid or agreed to be paid is

Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

(a) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus, and lodged with the Registrar, and where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from a company shall have and shall be deemed always to have had power to apply, any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

88. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total

Statement in balance-sheet as to commissions and discounts.



amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

#### *Payment of Interest out of Capital.*

89. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant; provided that

- (1) no such payment shall be made unless the same is authorized by the articles or by special resolution;
- (2) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Commissioner;
- (3) before sanctioning any such payment, the Commissioner may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment require the company to give satisfactory security for the payment of the costs of the inquiry;
- (4) the payment shall be made only for such period as may be determined by the Commissioner; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;
- (5) the rate of interest shall in no case exceed six per cent. per annum or such lower rate as may for the time being be prescribed by the Commissioner;
- (6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
- (7) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

#### *Certificates of Shares, etc.*

90. (1) Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

(2) If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding five pounds for every day during which the default continues.

#### *Register of Mortgages.*

91. (1) Every company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in case of securities to bearer) the names of the mortgagees or persons entitled to the charge.

(2) If any director, manager, secretary, or other officer of the company knowingly or wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

92. (1) The register of mortgages kept in pursuance of the last preceding section shall be open at all reasonable times to the inspection of the Registrar or any creditor or member of the company without fee, and of any other person on payment of such fee, not exceeding two shillings and sixpence for each inspection, as the company may prescribe.

(2) If inspection of the said register is refused, any officer of the company refusing inspection, and every director, manager, secretary or other officer of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues; and in addition the Court may, by order, compel immediate inspection of the said register.

93. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles, during such period or periods (not exceeding in the whole sixty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and the company shall furnish to every such holder extracts from the register on payment by such holder of one shilling for every hundred words or fractional part thereof required to be extracted or shall afford him or his duly authorized agent adequate facilities for making such extracts.

(2) A copy of any trust deed for securing any issue of debentures shall be transmitted to every holder of any such debentures at his request on payment, in the case of a printed trust deed, of the sum of two shillings and sixpence, or such less sum as may be prescribed by the company, or where the trust deed has not been printed, on payment of one shilling for every hundred words or fractional part thereof required to be copied.

(3) If the inspection, extracts, or facilities be refused, or a copy of a trust deed be refused or not transmitted the company shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding two pounds, for every day during which the refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty.

#### *Debentures.*

94. (1) Where a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns) shall have power to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power to reissue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such a re-issue the person entitled to the debentures shall have the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of reissue, they have been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a reissue for the purposes of this section.

(3) Where a company has deposited any of its debentures to secure advances from time to time on current account or otherwise the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

Right to inspect company's register of mortgages.

Right of debenture holders to inspect the register of debentures, and to have copies of trust deed

Power to re-issue redeemed debentures in certain cases



(4) Nothing in this section shall prejudice any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same.

95. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

#### *Inspection and Audit.*

96. (1) The Commissioner may appoint one or more inspectors to investigate the affairs of any company and to report thereon in such manner as he may direct—

(a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(b) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Commissioner may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation, and the Commissioner may, before appointing an inspector require the applicants to give satisfactory security for payment of the costs of the investigation.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which, under this section, it is his duty to produce, or to answer any question relating to the affairs of the company, notwithstanding that the answer may tend to incriminate him, he shall be liable to a fine not exceeding five pounds in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Commissioner, who shall cause a copy of the report to be transmitted to the registered office of the company, and, at the request of the applicants for the investigation shall cause a further copy to be delivered to such applicants. The report shall be written or printed, as the Commissioner directs.

(7) All expenses of and incidental to the investigation shall be defrayed by the applicants unless the Commissioner orders the same to be paid by the company.

97. (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Commissioner, except that instead of reporting to him, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties, in the case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Commissioner.

98. A copy of the report of any inspectors appointed under this Proclamation shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

99. (1) Every company shall, at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the Commissioner may, on the application of any member of the company, appoint an auditor of

the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) No director, manager, secretary or other officer of the company shall be capable of being appointed auditor of the company.

(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting.

Provided that if, after notice of intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this sub-section, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this sub-section, be sent or given at the same time as the notice of the annual general meeting.

(5) The first auditor or auditors of the company shall be appointed by the directors before the statutory meeting, and shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting shall appoint auditors.

(6) The directors of a company may fill any casual vacancy in the office of auditor but while any such vacancy continues the surviving or continuing auditor or auditors may act.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

100. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office and the report shall state

(a) whether or not they have obtained all the information and explanations they have required; and

(b) whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance-sheet shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance-sheet, or there shall be inserted at the foot of the balance-sheet a reference to the report and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder. Any shareholder shall be entitled to be furnished with a copy of the balance-sheet and auditors' report at a charge not exceeding one shilling for every hundred words.

(4) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance-sheet is issued, circulated, or

Powers and duties of auditors.

published without having a copy of the report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds.

101. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheet of the company and the reports of the auditors and other reports as are possessed by the holders of ordinary shares in the company.

(2) This section shall not apply to a private company.

#### *Carrying on Business with Less than the Legal Minimum Number of Members.*

102. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced every person who is a member of the company during the time that it so carries on business after those six months, and is cognizant of the fact that it is carrying on business with fewer than two members, or seven members (as the case may be), shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same, without any other member being joined in the action.

#### *Arbitrations.*

103. (1) A company may, by writing under the hands of two of its directors, or, if there is only one director, under the hand of that director, agree to refer and may refer to arbitration, in accordance with the Arbitration Ordinance 1904 of the Transvaal or any amendment thereof in force in Swaziland, any existing or future difference between itself and any other company or person.

(2) Companies parties to the arbitration may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) All the provisions of the said Ordinance or any amendment thereof in force in Swaziland, shall apply to arbitrations between companies and persons in pursuance of this Proclamation.

#### *Power to Compromise.*

104. (1) Where any compromise or arrangement is proposed between a company and its creditors or any class of them, or between a company and its members or any class of them, the Court may, on the application of the company or any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the Court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members (as the case may be), present either in person or by proxy at the meeting agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court be binding on all the creditors or the class of creditors, or on the members or class of members (as the case may be) and also on the company, or in the case of a company in course of being wound up, on the liquidator and contributories of the company.

#### *Private Company becoming a Public Company.*

105. A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and lodging with the Registrar such a statement in lieu of prospectus, as the company, if a public

company, would have had to lodge before allotting any of its shares or debentures together with any such affidavit or other solemn declaration as the company, if a public company, would have had to lodge before commencing business, turn itself into a public company.

### CHAPTER IV.

#### WINDING-UP.

##### *Preliminary.*

106. (1) The winding-up of a company may be either

Modes of winding-up.

- (i) by the Court; or
- (ii) voluntary; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Proclamation with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any of those modes.

##### *Contributories.*

107. (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding-up and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say):—

Liability as contributories of present and past members.

- (i) A past member shall not be liable to contribute if he has ceased to be a member for a period of one year or upwards before the commencement of the winding-up.
- (ii) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he had ceased to be a member.
- (iii) A past member shall not be liable to contribute unless it appears to the Court that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Proclamation.
- (iv) In the case of a limited company, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member.
- (v) Nothing in this Proclamation shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract.
- (vi) A sum due to any member of a company in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company; but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories amongst themselves.

(2) In the winding-up of a limited company, any director or manager, whether past or present, whose liability is, in pursuance of this Proclamation, unlimited shall, in addition to his liability (if any) to contribute as an ordinary member be liable to make a further contribution as if he were at the commencement of the winding-up a member of an unlimited company; provided that

- (i) a past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up;



- (ii) a past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;
- (iii) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

108. The term "contributory" shall mean every person liable to contribute to the assets of a company in the event of its being wound up, and in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, shall include any person alleged to be a contributory.

109. The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

110. If a contributory dies before or after he has been placed on the list of contributories, his executors or his heirs or legatees shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly, the liability of the legatees or heirs, if the estate has passed into their hands, being assessed rateably to the extent of the legacies or inheritances (as the case may be) severally received by them.

111. If a contributory becomes insolvent either before or after he has been placed on the list of contributories, then

- (i) his trustee in insolvency shall represent him for all the purposes of the winding-up, and shall be a contributory accordingly; and
- (ii) there may be proved against the estate of the insolvent the estimated value of his liability to future calls, as well as calls already made.

#### Winding-up by Court.

112. A company may be wound up by the Court

- (i) if the company has by special resolution resolved that the company be wound up by the Court;
- (ii) if default is made in lodging the statutory report or in holding the statutory meeting;
- (iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;
- (iv) if the number of members is reduced, in the case of a private company below two, or, in the case of any other company, below seven;
- (v) if seventy-five per cent. of the paid-up share capital of the company has been lost, or has become useless for the business of the company;
- (vi) if the company is unable to pay its debts;
- (vii) if the Court is of opinion that it is just and equitable that the company should be wound up.

113. A company shall be deemed to be unable to pay its debts

- (i) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or to compound for it to the reasonable satisfaction of the creditor; or
- (ii) if execution or other process issued on a judgment, decree, or order of any court of law in favour of a creditor of

the company is returned by the sheriff or messenger with the endorsement that he has not found sufficient assets to satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process; or

- (iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

114. (1) An application to the Court for the winding-up of a company shall be by petition, presented (subject to the provisions of this section) by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately; provided that

Application for winding up a company

- (a) a contributory shall not be entitled to present a petition for winding-up a company, unless

(i) the number of members is reduced in the case of a private company, below two, or in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory, or some of them either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding-up, or have devolved upon him through the death of a former holder; and

- (b) a petition for winding-up a company on the ground of default in lodging the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held; and

- (c) the Court shall not give a hearing to a petition for winding-up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a prima facie case for winding-up has been established to the satisfaction of the Court.

(2) Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by the Master, or by any other person authorized in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

115. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Effect of winding up order.

116. A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Commencement of winding up by Court.

117. At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any creditor or contributory, may

Court may stay or restrain proceedings against the company.

- (a) where any action or proceeding is pending in any court of law in Swaziland, apply to such Court for a stay of proceedings therein; and

- (b) where any other action or proceeding is pending against the company, apply to the Court having jurisdiction to wind-up the company to restrain further proceedings in the action or proceeding;

and the Court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

118. (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any *interim* order, or any other order that it deems just, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) When a petition is presented on the ground of default in lodging the statutory report or in holding the statutory meeting the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

119. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

120. (1) On the presentation of the petition, written notice thereof, and on the making of a winding-up order, a copy thereof shall forthwith be transmitted by the registrar of the Court to which the petition is presented or of the Court which made the order, to the Registrar, the Master, the Registrar of Deeds, and every other officer charged with the duty of registering title to immovable property or mining title.

(2) The Registrar upon receipt of such notice or copy shall make a minute thereof in his books relating to the company.

(3) The Master upon receipt of such copy shall as soon as may be thereafter advertise the terms thereof in the *Gazette*.

(4) The Registrar of Deeds, and every other registering officer aforesaid upon receipt of such notice or copy shall make a minute thereof in his register and shall transmit to the Master as soon as may be a return of any immovable property or ground held under mining title (as the case may be) which is registered in that register in the name of the company.

121. The Court may at any time after an order for winding-up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court deems fit.

122. The Court may, as to all matters relating to a winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

#### *Master of the Court.*

123. (1) Where the Court has made a winding-up order, there shall be made out and submitted to the Master a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the Master may require; a duplicate of such statement shall be lodged with the liquidator.

(2) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up order the directors and by the person who is at that time the secretary or other chief officer of the company, or by such of the persons being or having been directors or officers of the company or having taken part in the formation of the Company at any time within one year before the winding-up order, as the Master, subject to the direction of the Court, may require to submit and verify the same.

(3) The statement shall be submitted within fourteen days from the date of the order, or within such extended time as the Master or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the Master out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the Master may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom. But any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall be punishable accordingly on the application of the liquidator or of the Master.

124. (1) Where the Court has made a winding-up order, the Master shall, as soon as practicable after receipt of the statement of the company's affairs, submit a preliminary report to the Court.

Report by Master.

(a) as to the amount of the capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and

(b) if the company has failed, as to the causes of the failure; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The Master may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

#### *Liquidators.*

125. (1) For the purpose of conducting the proceedings in winding-up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

Appointment remuneration and title of liquidators.

(2) The Court may make such appointment provisionally at any time after the presentation of a petition and before the making of an order for winding-up.

(3) (a) If a provisional liquidator is appointed before the making of a winding-up order, any fit person may be appointed.

(b) On a winding-up order being made all the property of the company shall be deemed to be in the custody or control of the Master until a liquidator is appointed and is capable of acting as such.

(c) A person shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and found security to the satisfaction of the Master.

(4) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Proclamation required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) A liquidator appointed by the Court may, with the leave of the Court, resign, or, on cause shown, be removed by the Court.

(6) A vacancy in the office of liquidator appointed by the Court shall be filled by the Court.



The property of the company shall be deemed to be in the custody or control of the Master during the vacancy if there is no liquidator remaining.

(7) A liquidator shall receive the prescribed fees as remuneration.

(8) If any such liquidator shall fail without sufficient excuse to lodge with the Master the liquidation account and plan of distribution herein after prescribed, and within the time so prescribed, the Master may, subject to a right of appeal by the liquidator to the Court, disallow the whole or any portion of the remuneration which such liquidator, in that capacity, would otherwise have been entitled to receive.

(9) A liquidator shall be described by the style of the liquidator of the particular company in respect of which he is appointed, and not by his individual name.

(10) The acts of a liquidator shall be valid notwithstanding any defects that may be afterwards discovered in his appointment or qualification.

126. In a winding-up by the Court the liquidator shall take into his custody, or under his control, all the property, movable and immovable, to which the company is or appears to be entitled.

127. (1) The liquidator in a winding-up by the Court shall have power with the sanction either of the Court or of the committee of inspection

(a) to bring or defend any action or other legal proceeding of a civil nature and, subject to the provisions of Chapter III of the Criminal Procedure Code 1903 of the Transvaal as in force in Swaziland, any criminal proceeding, in the name and on behalf of the company;

(b) to carry on the business of the company so far as may be necessary for the beneficial winding-up thereof;

(c) to employ an attorney of the Court or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself; provided that the sanction of the Court shall be obtained before the employment, except in cases of urgency, and in those cases it must be shown that no undue delay took place in obtaining the sanction;

(d) to sell the movable and immovable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(e) to do all acts and to execute in the name and on behalf of the company all deeds, receipts, and other documents, and for that purpose to use the company's seal, if the company has a common seal and the articles of the company require the documents to be executed under its common seal;

(f) to prove rank and claim in the insolvency or sequestration of any contributory for any balance against his estate and to receive dividends in the insolvency or sequestration in respect of that balance, as a separate debt due from the insolvent, and ratably with the other separate creditors or in the legal order of their preference;

(g) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn accepted made or endorsed by or on behalf of the company in the course of its business;

(h) to raise on the security of the assets of the company any money requisite;

(i) to apply in his official name for letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any money due from a contributory, or his estate which cannot be conveniently done in the name

of the company; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or to recover the money, be deemed to be due to the liquidator himself;

(j) to do all such other things as may be necessary for winding-up the affairs of the company and distributing its assets.

The liquidator in a winding-up by the Court of an insolvent company shall have the same rights, in respect of leases or agreements for leases entered into by the company, which the trustee of an insolvent estate has under the law for the time being relating to insolvency.

(2) The exercise by the liquidator in a winding-up by the Court of the powers conferred by this section shall be subject to the control of the Court and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

(3) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him.

128. (1) When a winding-up order has been made by the Court, the Master shall summon separate meetings of the creditors and contributories of the company for the purpose of

(a) determining the person or persons whose names shall be submitted to the Court in an application to the Court for appointing a liquidator or liquidators; and

(b) determining whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(2) The Court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the preceding provisions of this section, the Court shall decide the difference and make such order thereon as the Court may think fit.

(3) The provisions of the Sixth Schedule to this Proclamation shall, subject to such modifications as may be made therein by rules of Court, apply to any meeting summoned in pursuance of this section.

129. Every liquidator shall give the Master such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Proclamation.

130. (1) Every liquidator of a company which is being wound up by the Court shall forthwith pay the money received by him to a bank named by the Master and the bank shall furnish him with a certificate of receipt of the money so paid:

Provided that, if the committee of inspection satisfy the Master that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Master shall, on the application of the committee of inspection, authorize the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than three days a sum exceeding fifty pounds, or such other amount as the Master in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Master, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall be liable to disallowance of

Meetings of creditors and contributories in winding-up.

Liquidator to give information to Master.

Payments of liquidator in winding-up into bank.



all or such part of his remuneration as the Master may think just, and to be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound-up by the Court shall not pay any sums received by him as liquidator into his private banking account.

131. (1) Every liquidator of a company which is being wound-up by the Court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Master an account of his receipts and payments as liquidator.

(2) The account shall be in a prescribed form, shall be made in triplicate and shall be verified by an affidavit or other solemn declaration in the prescribed form.

(3) The Master shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the Master with such vouchers and information as the Master may require, and the Master may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited one copy thereof shall be filed and kept by the Master, another copy shall be sent to the liquidator, and another copy shall be filed with the Court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The liquidator shall cause the account when audited or a summary thereof to be printed, and shall send a copy of the account or summary by post to every creditor and contributory.

(6) The cost of any audit, printing or transmission of accounts under this section shall be expenses properly incurred in the winding-up.

132. Every liquidator of a company which is being wound-up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

133. The liquidator shall, in a winding-up of a company by the Court, be under the like obligations with regard to the framing and lodging of a liquidation account and a plan of distribution or contribution, as the trustee of an insolvent estate appointed under the law for the time being in force relating to insolvency; and the confirmation of such account and plan of distribution or contribution, and the distribution of all moneys payable thereunder, shall be subject to the provisions of such law.

Provided that the Master may give such directions with regard to the advertisement of the account and plan of distribution or contribution, and the period of time during which it shall lie open for inspection, as he shall think fit, having regard to all the circumstances of the case.

134. As often as a liquidator shall fail to lodge with the Master the account mentioned in the last preceding section, the Master, or any person having an interest in the company being wound-up, may, at any time after the expiry of six months from the date on which such liquidator was appointed apply to the Court for an order upon the liquidator to show cause why such account has not been lodged.

Provided that the Master or the person aforesaid shall, not later than one month before notice of the application is served upon the liquidator, have written demand upon him to lodge his account.

135. (1) When the liquidator of a company which is being wound-up by the Court has realized all the property of the company and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, the Master

shall, on the liquidator's application, cause a report on his accounts to be prepared, and, on the liquidators complying with all the requirements of the Master, the Court shall take into consideration the report, and any objection which may be urged by any creditor, or contributory or person interested against the release of the liquidator, and upon consideration of that report and the objection (if any) and of a report made to the Court by the Master, the Court may either grant or withhold the release.

(2) Where the release of a liquidator is withheld the Court may, on the application of any creditor, or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the liquidator shall discharge the liquidator from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed his release shall operate as a removal of him from his office.

136. (1) Subject to the provisions of this Proclamation, the liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may, by notice in the *Gazette*, summon general meetings of the creditors or of the contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or the contributories (as the case may be), by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or of the contributories as the case may be.

(3) The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4) Subject to the provisions of this Proclamation, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

137. (1) The Master shall take cognizance of the conduct of liquidators of companies which are being wound-up by the Court, and if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or, if any complaint is made to the Master by any creditor or contributory in regard thereto, the Master shall inquire into the matter and take such action thereon as he may think expedient.

(2) The Master may at any time require any liquidator of a company which is being wound up by the Court to answer any inquiry in relation to any winding-up in which such liquidator is engaged, and may, if he thinks fit, apply to the Court to examine such liquidator or any other person on oath concerning the winding-up.

Exercise and control of liquidator's powers.

Control of Master over liquidators.

(3) The Master may also direct a local investigation to be made of the books and vouchers of the liquidator.

(4) The Court may, upon the application of the Master, order that any costs reasonably incurred by him in carrying out the powers of this section be paid out of the assets of the company or by the liquidator *de bonis propriis*.

#### *Committee of Inspection.—Special Manager.*

138. (1) A committee of inspection appointed in pursuance of this Proclamation shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

(2) The committee shall meet at such times as it may from time to time appoint, and, failing such appointment, at least once a month: and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of its members present at a meeting, but shall not act unless a majority of the committee are present.

(4) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes insolvent, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories as the case may be, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors (if he represents creditors), or of contributories (if he represents contributories) of which seven days' notice in the *Gazette* has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Proclamation authorized or required to be done or given by the committee may be done or given by the Master on the application of the liquidator.

139. (1) The Master may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company apply to the Court to, and the Court may on such application, appoint a special manager thereof to act during such time as the Court may direct, with such powers, including any of the powers of a manager, as may be entrusted to him by the Court.

(2) The special manager shall give such security and account in such manner as the Master directs.

(3) The special manager shall receive the prescribed fees as remuneration.

#### *Ordinary Powers of Court.*

140. (1) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of this Proclamation, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

141. The Court may at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to the liquidator, any money, property or books and papers in his hands to which the company is *prima facie* entitled.

142. (1) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him, or from the estate of the person whom he represents, to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Proclamation.

(2) The Court in making such order may, in the case of an unlimited company, allow to the contributory by way of a set-off any money due to him, or to the estate which he represents from the company on any independent dealing or contract with the company but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager thereof whose liability is unlimited or to his estate the like allowance.

(3) But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

143. (1) The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves.

(2) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

144. (1) The Court may order any contributory, purchaser, or other person from whom money is due to the company to pay the same into a bank to be named by the Court to the account of the liquidator instead of to the liquidator, and such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into a bank as aforesaid in the event of a winding-up by the Court shall be subject in all respects to the orders of the Court.

145. (1) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in such order shall be taken *prima facie* as truly stated as against all persons and in all proceedings whatsoever.

146. The Court may fix a time or times within which creditors of the company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

147. The Court shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

148. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the

Power to require delivery of property.

Power to order payment of debts by contributory.

Power of Court to make calls.

Power of Court to order payment into bank.

Order on contributory conclusive evidence.

Power to exclude creditors not proving in time.

Power to adjust rights of contributories.

Power to order costs.



assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the Court thinks just.

149. (1) When the affairs of a company have been completely wound-up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) A copy of the order shall forthwith be transmitted by the registrar of the court which made the order to the Registrar, who shall make a minute in his books of the dissolution of the company.

(3) A copy of the order shall also be transmitted forthwith by the registrar of the court which made the order to the Master, to the registrar of deeds and to every officer charged with the duty of registering title of immovable property or mining title in Swaziland.

(4) The order shall be published by the liquidator in the *Gazette* and in such newspaper as the Court may direct, within seven days after the making of the order.

(5) If the liquidator makes default in complying with any requirement of this section, he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

150. Rules may be made by the Court for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Proclamation, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the Court, and subject to the control of the Court; that is to say, the powers and duties of the Court in respect of

(a) holding and conducting meetings to ascertain the wishes of creditors and contributories;

(b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;

(c) requiring delivery of property or documents to the liquidator;

(d) making calls;

(e) fixing a time within which debts and claims must be proved;

Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection.

#### *Extraordinary Powers of Court.*

151. (1) The Court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

(2) The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them and he may be required to answer any question put to him on the examination, notwithstanding that the answer might tend to incriminate him:

Provided that any answer given to any such question shall not be used against him in any prosecution other than for perjury or for the offence under this Proclamation of giving false evidence.

(3) The Court may require him to produce any books and papers in his custody or power relating to the company; but where he claims any lien on books or papers produced by him the production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions as to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, fails to come before the Court at the time

appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it) the Court may cause him to be apprehended, and brought before the Court for examination.

(5) The Court may order any costs incurred under this section to be paid out of the assets of the company.

152. (1) When an order has been made for winding-up a company by the Court, and the Master has made a further report under this Proclamation, showing that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by a director or officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that any person who has taken part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation, or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The Master may take part in the examination, and for that purpose may, if specially authorized by the Commissioner in that behalf, employ an attorney with counsel.

(3) The liquidator, and any creditor or contributory, may also take part in the examination either personally or by attorney with counsel.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him notwithstanding that any answer may tend to incriminate him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the Master's report, and may at his own cost employ an attorney with counsel, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him. Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may, save as herein provided, thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times:

Provided that any answer given by a person upon an examination under this section shall not be used against him in any prosecution other than for perjury or for the offence under this Proclamation of giving false evidence.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to rules of court, be held before the Master, or an Assistant Commissioner or other person named or appointed for the purpose by the Court, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held:

Provided that at an examination held before the Master, or an Assistant Commissioner or such other person as aforesaid, an attorney may appear without counsel.

(10) The Court may order any costs incurred under this section to be paid out of the assets of the company.

153. The Court, at any time before or after making a winding-up order, on proof that there is reason to believe that a contributory is about to quit Swaziland, or otherwise to abscond, or to remove or conceal any property for the

Power to order public examination of promoters, directors, etc.

Power to arrest absconding contributory

Power to summon person before it of company.

purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company may cause the contributory to be arrested, and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the Court may order.

154. Any powers by this Proclamation conferred on the Court shall be deemed to be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

155. Subject to rules of court, an appeal from any order or decision made or given for or in the winding-up of a company by the Court under this Proclamation shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the Court in cases within its ordinary jurisdiction.

#### *Voluntary Winding-up of Company.*

156. A company may be wound up voluntarily:—

(1) When the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily.

(2) If the company resolves by special resolution that the company be wound up voluntarily.

(3) If the company resolves by extraordinary resolution that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

157. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding-up.

158. When a company is wound up voluntarily the company shall, from the commencement of the winding-up, cease to carry on its business, except in so far as may be required for the beneficial winding-up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

159. (1) When the company has resolved by special or extraordinary resolution to wind up voluntarily it shall as soon as may be give notice of the resolution by advertisement in the *Gazette*.

(2) Notice in writing of the resolution shall also be given as soon as may be by the company to the Master, to the Registrar of Deeds, and to every officer charged with the duty of registering title to immovable property or mining title in Swaziland.

(3) If default is made by a company in complying with the requirements of this section the company, and every director, manager, secretary, or other officer of the company, who knowingly authorized or permitted the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

160. The following consequences shall ensue on the voluntary winding-up of a company:—

(i) The property of the company shall be applied in satisfaction of its liabilities in the legal order of their preference and subject thereto shall, unless the articles otherwise provide, be distributed amongst the members according to their rights and interests in the company;

(ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them;

(iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance;

(iv) the liquidator may, without the sanction of the Court, exercise all powers by this Proclamation given to the liquidator in a winding-up by the Court;

(v) the liquidator may exercise the powers of the Court under this Proclamation of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves;

(vi) the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories;

(vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination, by any number not less than two;

(viii) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator;

(ix) the Court may, on good cause shown, remove a liquidator and appoint another liquidator.

161. (1) The liquidator in a voluntary winding-up shall, within twenty-one days after his appointment, lodge with the Registrar and with the Master, a notice of his appointment in the prescribed form.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

162. (1) Every liquidator appointed by a company in a voluntary winding-up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company, that a meeting of the creditors of the company will be held on a date, not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the *Gazette* and once at least in two newspapers circulating in Swaziland.

(2) At the meeting to be held in pursuance of the provisions of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the Court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting.

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) No appeal shall lie from any order of the Court upon an application under this section.

(5) The Court shall make such order as to the costs of the application as it may think fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application

Notice by liquidator of his appointment in the

Rights of creditors in a voluntary winding-up.



to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

163. (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company in a voluntary winding-up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory, or, if there were more liquidators than one, by the continuing liquidator or liquidators.

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidator or liquidators, be determined by the Court.

164. (1) A company about to be, or in the course of being wound up voluntarily may, by extraordinary resolution, delegate to its creditors or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

165. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors, shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court, against it and the Court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

166. (1) Where a company is proposed to be, or is being, wound up altogether voluntarily and the whole or part of its business or property is proposed to be transferred or sold to another company, whether registered under this Proclamation or not (in this section called the transferee company) the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution amongst the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money shall be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but if an order be made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) For the purposes of an arbitration under this section the provisions of the Expropriation of Lands and Arbitration (Clauses Proclamation 1902 and of the Arbitration Ordinance 1904 of the Transvaal or any amendment thereof in force in Swaziland, with respect to settlement of disputes by arbitration shall be incorporated with this Proclamation.

167. (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor of the company may apply to the Court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

168. (1) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

(2) In the event of the winding-up continuing for more than six months, the liquidator shall summon a general meeting of the company at the end of the first six months from the commencement of the winding-up, and of each succeeding period of six months or as soon thereafter as may be convenient and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding period of six months.

169. (1) In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the *Gazette* specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall make a return to the Registrar and to the Master of the holding of the meeting and of its date, and in default of so doing shall be liable to a fine not exceeding five pounds for every day during which any such default continues.

(4) The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved.

Provided that the Court may, on the application of the liquidator, or of any other person who appears to the Court to be interested make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Power to apply to Court.

Power of liquidator to call general meeting.

Final meeting and dissolution.



170. The voluntary winding-up of a company shall not bar the right of any creditor or contributory at any time before its dissolution to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor, or, in the case of an application by a contributory, that the rights of the contributory will be prejudiced by a voluntary winding-up.

171. Where a company is being wound up voluntarily, and an order is made for winding up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding-up.

#### *Winding up Subject to Supervision of Court.*

172. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding-up shall continue but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions as the Court thinks just.

173. A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding up by the Court.

174. The Court may, in deciding between a winding-up by the Court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

175. (1) When an order is made for a winding-up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

176. (1) Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(2) A winding-up subject to the supervision of the Court is not a winding-up by the Court for the purpose of the following provisions of this Proclamation, namely, those contained in sections one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five except sub-section (10) thereof, one hundred and twenty-eight to one hundred and thirty-nine inclusive, one hundred and fifty and one hundred and fifty-two, but, save as aforesaid an order for winding up subject to the supervision shall for all purposes, including the staying of actions and other legal proceedings, the making and enforcement of calls, and the exercise of all other powers be deemed to be an order for winding-up by the Court.

#### *Supplemental Provisions.*

177. All costs, charges, and expenses properly incurred in any winding-up of a company, including the remuneration of the liquidator or liquidators, shall, unless the Court otherwise orders be payable out of the assets of the company and in priority to all other claims.

178. (1) In the case of a voluntary winding-up every transfer of shares except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company, made after the commencement of the winding-up, shall be void.

(2) In the case of a winding-up by or subject to the supervision of the Court, every disposition of the property (including rights of action) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding-up, shall, unless the Court otherwise orders, be void.

179. In every winding-up (subject in the case of insolvent companies to the application in accordance with the provisions of this Proclamation of the law for the time being relating to insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

180. In the winding-up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to the debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law relating to insolvency, with respect to the estates of persons sequestrated; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding-up, and make such claims against the company as they respectively are entitled to by virtue of this section.

181. (1) In a winding-up there shall be paid in priority to all other debts

(a) all taxes due and payable to the Crown;

(b) all assessment rates, erf taxes, sanitary, water, and other like charges payable to any local authority by the company at any time within twelve months ending the thirtieth day of June next before the date herein after mentioned in this section;

(c) the wages or salary of any clerk or servant in respect of services rendered to the company during two months next before the date herein after mentioned in this section;

(d) the wages of any workman or labourer not exceeding fifty pounds whether payable for time or for piecework in respect of services rendered to the company during the two months immediately preceding the said date;

Provided that where any labourer or workman has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the period of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the Court may decide to be due under the contract proportionate to the time of service up to the said date:

(2) The debts described in sub-section (1) shall

(a) rank equally between themselves and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of mortgagees and holders of debentures created by the company, and be paid accordingly out of any property comprised in or subject to the document securing the claims of the mortgagees or debenture holders.

Avoidance of transfers after commencement of winding-up.

Debts of all descriptions to be proved.

Application of Insolvency Law in winding-up of insolvent companies.

Preferential payments in winding-up.

(3) Subject to the retention of such sums as may be necessary for the costs charges and expenses of winding-up, all the debts described in sub-section (1) shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) The date herein before in this section mentioned is

(a) in the case of a company ordered to be wound-up compulsorily which had not previously commenced to be wound-up voluntarily, the date of the winding-up order; and

(b) in any other case the date of the commencement of the winding-up.

(5) The provisions of this section shall apply in the winding-up of every company, anything to the contrary in Chapter IV of the Master and Servants Law 1880 of the Transvaal as in force in Swaziland notwithstanding.

182. (1) Every disposition of its property which would, if made by an individual be deemed in the event of his insolvency to have been void or voidable or an undue preference shall, if made by a company, be deemed, in the event of its being wound-up and then insolvent, void or voidable or an undue preference (as the case may be) and the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied to any such disposition.

(2) For the purpose of this section the presentation of a petition for winding-up in the case of a winding-up by or subject to the supervision of the Court, and a resolution for winding-up in the case of a voluntary winding-up, shall be deemed to correspond with the sequestration order in the case of an individual.

(3) Any cession or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

183. In the case of a winding-up of any insolvent company, the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied in respect of any matter not specially provided for in this Proclamation.

184. Where any company is being wound-up by or subject to the supervision of the Court, any attachment or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents.

185. (1) The liquidator may with the sanction following (that is to say) —

(a) in the case of a winding-up by the Court, with the sanction either of the Court or of the committee of inspection;

(b) in the case of any winding-up subject to supervision, with the sanction of the Court; and

(c) in the case of a voluntary winding-up, with the sanction of an extraordinary resolution of the company;

do the following things or any of them: —

(i) Pay any classes of creditors in full.

(ii) Make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company or whereby the company may be rendered liable.

(iii) Compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, upon such terms as may be agreed,

and take any security for the discharge of such calls, debts, liability or claim, and give a complete discharge in respect thereof.

(2) In the case of a winding-up by the Court the exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

186. (1) Where in the course of winding-up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the Master, or of the liquidator, or of any creditor or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retention, misfeasance, or breach of trust as the Court thinks just.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

187. If any director, officer, or contributory of any company being wound-up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of a false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of an offence and liable to imprisonment without the option of a fine for a period not exceeding seven years.

188. (1) If it appears in the course of winding-up of a company that any past or present director, manager, officer or member of the company has been guilty of an offence in relation to the company for which he is criminally responsible the liquidator shall cause all the facts known to him which appear to constitute the offence to be laid before the Crown Prosecutor, and, in the event of the Crown Prosecutor certifying that he declines to prosecute, the liquidator may, subject to the provisions of section one hundred and twenty-seven, institute and conduct a private prosecution for such offence.

(2) The Court may, upon application by the liquidator, order the whole or any portion of the costs and expenses incidental to such private prosecution to be paid out of the assets of the company in priority to all other liabilities.

189. (1) Where by this Proclamation the Court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, the Court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(2) In the case of creditors regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

190. Where any company is being wound-up all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Power of Court to examine directors, etc.

Penalty for falsification of books, etc.

Prosecution of delinquent directors, etc.

Meetings to ascertain wishes of creditors or contributories.

Books of company to be evidence.

Voidable and undue preferences.

mut. to insolvent companies where no special provisions in the law.

Provisions relating to attachment, execution, etc.

General scheme of liquidation may be sanctioned.



191. After an order has been made for winding-up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors and contributories accordingly, but not further or otherwise.

192. (1) When any company has been wound-up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows (that is to say):—

(a) In the case of a winding-up by or subject to the supervision of the Court, in such way as the Court directs.

(b) In the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

(2) After five years from the dissolution of the company, no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to a person claiming to be interested therein.

193. (1) When a company has been dissolved the Court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

194. (1) Where a company is being wound-up, if the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, transmit to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributor of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof, or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the liquidator or of the Master.

(3) If a liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues.

(4) If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company, which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay that money to the Master, who shall deposit the same in the Guardian's Fund referred to in the Administration of Estates Proclamation 1902 of the Transvaal or any amendment thereof in force in Swaziland, and the liquidator shall be entitled to a certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(5) Any person claiming to be entitled to any money paid to the Master in pursuance of this section may apply to him for payment of the same, and the Master may, on a certificate

by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(6) Any person dissatisfied with the decision of the Master in respect of any claim made in pursuance of this section may appeal to the Court.

195. (1) All Assistant Commissioners and such other persons as the Court may appoint shall be commissioners for the purpose of taking evidence under this Proclamation in cases where a company is wound-up and the Court may refer the whole or any part of the examination of any witnesses under this Proclamation to any person hereby appointed commissioner, although he is out of the jurisdiction of the court which made the winding-up order.

(2) Every Commissioner shall, in addition to any powers which he might lawfully exercise as Assistant Commissioner, have in the matter so referred to him, the same powers of summoning and examining witnesses, of requiring the production or delivery of documents of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the court which made the order in such manner as that court directs.

#### *Removal of Defunct Companies from Register.*

196. (1) When the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation, he shall send to the company by post a letter inquiring whether it is carrying on business or is in operation.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company a registered letter referring to the first letter and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the *Gazette* with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or is not in operation, or does not within one month after sending the second letter receive any answer, he may publish in the *Gazette* and send to the company by post a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound-up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound-up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the Registrar may publish in the *Gazette* and send to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register and shall publish notice thereof in the *Gazette*, and on the publication of this notice the company shall be dissolved: Provided that the liability (if any) of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register the Court, on the application of the company, or member or creditor may, if satisfied that the company was

Special Commissioners for taking evidence.

Registrar may strike defunct company off register.

at the time of the striking off carrying on business or was in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may, by the order, give such directions and make such provision as seem just for placing the company and all other persons in the same position, as nearly as may be, as if the company had not been struck off.

(7) A letter or notice under this section shall be addressed to the company at its registered office, or, if no office has been registered to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum addressed to him at the address mentioned in the memorandum.

197. (1) Whenever under this Proclamation any order is made by the Court in connection with the winding-up or dissolution of a company, a copy of such order shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the Master.

(2) Whenever any such order affects the title to immovable property or mining title a copy of the order shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the Registrar of Deeds, and to every registering officer charged with the duty of registering title to immovable property or mining title in Swaziland.

## CHAPTER V.

### FOREIGN COMPANIES.

198. (1) Every foreign company (other than a banking company or insurance company as herein after defined) which at the commencement of this Proclamation had a place of business in Swaziland and every foreign company which, after such commencement establishes a place of business in Swaziland and which uses the word "Limited" as part of its name shall—

(a) in every prospectus inviting subscriptions for its shares or debentures in Swaziland, state the foreign country in which the company is registered or incorporated; and

(b) conspicuously exhibit, outside all its places of business in Swaziland, the name of the company and the foreign country in which the company is registered or incorporated; and

(c) have the name of the company and of the foreign country in which the company is registered or incorporated, mentioned in legible characters in all billheads, and letter paper, and in all notices, advertisements, and other official publications of the company.

(2) If any foreign company to which this section applies fails to comply with any requirement of this section, the company, and every officer or agent of the company in Swaziland shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing default, five pounds for every day during which the default continues, provided that no penalty shall be recoverable under this subsection except for an offence committed after the expiration of three months, from the commencement of this Proclamation.

(3) For the purposes of this section—

"banking company" shall mean a company which by reason of the business carried on by it (but so far only as concerns such business) is subject to the provisions of Law No. 2 of 1893 of the Transvaal or any amendment thereof in force in Swaziland;

"insurance company" shall mean a company which by reason of the business carried on by it (but so far only as concerns such business) is subject to the provisions of Law No. 8 of 1898 of the Transvaal or any amendment thereof in force in Swaziland;

"place of business" shall mean any place where the company transacts, or holds itself out as transacting business, and shall include a share transfer or share registration office.

## CHAPTER VI.

### APPLICATION OF PROCLAMATION.

199. Where a company is subject to the provisions of—

(a) Law No. 2 of 1893 of the Transvaal as in force in Swaziland or any law which for the time being is specially applicable to banking companies; or

(b) Law No. 8 of 1898 of the Transvaal as in force in Swaziland or any law which for the time being is especially applicable to life, fire or accident insurance companies or societies, the provisions of this Proclamation which would otherwise apply in respect of such company shall not apply wherever those provisions would be inconsistent with any such law.

200. (1) The provisions of this Proclamation shall not be construed as applying to a building society, a friendly society, a trade union or a co-operative agricultural society:

Provided that—

(i) any society or union in this sub-section mentioned shall, until the enactment of any law providing for its registration and management, be permitted to register under Chapter I upon complying with the provisions of that chapter in respect of registration;

(ii) every such society or union, unless so registered, shall be deemed for the purposes of Chapter VII, to be an unregistered company.

(2) In this section—

"building society" shall, until a law is in force in Swaziland regulating building societies, mean a society of persons, formed for the sole purpose of raising by the subscription of its members, a fund out of which advances may be made to members upon the security of immovable property and, when any such law is in force, shall mean a building society as therein defined;

"friendly society" shall, until a law is in force in Swaziland regulating friendly societies, mean a society of persons formed solely or mainly for the purpose of raising by the voluntary subscriptions of its members, with or without the aid of donations, a fund—

(a) for the relief or maintenance of members and their relatives during minority, old age, widowhood, sickness, or other infirmity, mental or bodily, or for the endowment at any age of members or their nominees;

(b) providing medical attendance and procuring medicines and medical requirements for such members or relatives;

(c) insuring a sum of money to be paid on the birth of a member's child or on the death of a member or for the funeral expenses of the husband, wife, child, or relative of a member; and, when any such law is in force, shall mean a friendly society as therein defined;

"trade union" shall, until a law is in force in Swaziland regulating trade unions mean any lawful organization of employees formed for the purpose of

Restricted application of Proclamation in case of banking and insurance companies.

Exemption from Proclamation of co-operative agricultural societies, building societies, friendly societies, and trade unions.



regulating the relations between employers and employees and when any such law is in force shall mean a trade union as therein defined;

"co-operative agricultural society" shall, until a law is in force in Swaziland regulating co-operative agricultural societies mean any lawful organization of persons carrying on farming operations in Swaziland formed for the purpose of mutual assistance in farming and when any such law is in force shall mean a co-operative agricultural society as therein defined.

## CHAPTER VII.

### WINDING-UP OF UNREGISTERED COMPANIES.

201. Subject to the provisions of this Chapter any company association syndicate or partnership having a place of business in Swaziland, which consists of more than seven members and is not a company to which Chapters I, II, and III apply, may be wound up under this Proclamation, and all the provisions of this Proclamation with respect to winding-up shall apply to such a company, association, syndicate or partnership (herein after referred to as an "unregistered company") with the following exceptions and additions:

- (i) No unregistered company shall be wound up under this Proclamation voluntarily or subject to supervision;
- (ii) The circumstances in which an unregistered company may be wound up are as follows (that is to say):—
  - (a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;
  - (b) if the company is unable to pay its debts;
  - (c) if the court is of opinion that it is just and equitable that the company should be wound up;

(iii) An unregistered company shall, for the purposes of this Proclamation, be deemed to be unable to pay its debts:—

(a) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director manager or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or to compound for it to the satisfaction of the creditor;

(b) if any action or other proceeding has been instituted against any member for any debt or demand due or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction

against the action or proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a judgment decree or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied by the sheriff or messenger with the endorsement that he has not found sufficient assets, to satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process;

(d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

202. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of the death or insolvency of any contributory, the provisions of this Proclamation with respect to the legal representatives, heirs, and legatees of deceased contributories and to the trustees of insolvent contributories shall apply.

203. The provisions of this Proclamation with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up, and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

204. Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

205. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may by the winding-up order, or by any subsequent order direct that all or any part of the property, immovable and movable (including rights of action) belonging to the company, or to trustees on its behalf, is to vest in the liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any action or other legal proceeding relating to that property, or necessary to be brought or defended for the purpose of effectually winding up the company and recovering its property.

206. The provisions of this Chapter with respect to unregistered companies shall be deemed to be in addition to and not in restriction of any provisions herein before in this Proclamation contained with respect to winding up companies by the Court, and the Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies registered under Chapter I; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Proclamation, and then only to the extent provided by this Chapter.



## MISCELLANEOUS PROVISIONS.

207. (1) Three months prior to the date when any amalgamation scheme or portion thereof is to be submitted to any general meeting of a company that scheme shall be submitted to the Commissioner, and, unless it has been so submitted, the Registrar shall not register in his office any document which gives effect to the scheme or to any portion thereof.

(2) For the purposes of this section an amalgamation scheme shall mean a scheme under which any one or more companies will be dissolved and the undertaking or undertakings of the dissolved company or companies transferred to a new company, or to another company then existing with or without a change in the name of that company, or a scheme under which the entire undertaking and assets of any company are transferred to another company.

208. If, in any proceeding under this Proclamation against a director of a company for negligence or breach of trust, it appears to the Court hearing the case that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him either wholly or partly from his liability, on such terms as the Court may think proper.

209. (1) There shall be paid in respect of the several matters mentioned in the Second Schedule to this Proclamation or in that Schedule as altered or added to under the powers of this section the several fees specified in such Schedule or in the alteration or addition thereto. All such fees shall be paid by means of revenue stamps which shall be duly defaced by the officer concerned with the particular matter.

(2) The forms set forth in the Third Schedule to this Proclamation, or forms as nearly thereto as the circumstances admit, shall be used in all matters to which those forms refer.

(3) The High Commissioner may from time to time alter or add to the tables in the Second Schedule to this Proclamation, and may alter or add to any of the forms in the Third Schedule to this Proclamation or Table A.

The High Commissioner may further from time to time make or alter a table of fees which shall be payable to a liquidator or special manager as remuneration and such a table of fees, when so made or altered, shall be deemed to form part of the Second Schedule to this Proclamation.

(4) Any such table and form as altered, and any added form shall be published in the *Gazette*, and thenceforth shall have the same force and effect as if it were included in one of the Schedules to this Proclamation but no alteration in, or addition to, Table A shall affect any company registered before the publication of the alteration, or addition, as respects that company, or shall repeal any portion of Table A which applies to it.

210. (1) The High Commissioner may, from time to time, make, alter, or rescind rules concerning the procedure to be followed with respect to matters in which the Court is empowered under this Proclamation to exercise jurisdiction.

(2) Every such rule and any alteration or rescission thereof shall, when published in the *Gazette*, have full force and effect.

211. (1) For the purpose of the registration of companies under this Proclamation, there shall be an office in Mbabane.

(2) The High Commissioner may, from time to time, appoint an officer who shall be styled "Registrar of Companies" and such other officers and clerks as he may think necessary for carrying on the registration of companies under this Proclamation or for effectually exercising any other powers or jurisdiction or performing any duties assigned by this Proclamation or any amendment thereof to the

Registrar; and may from time to time make, alter, or rescind regulations, not inconsistent with this Proclamation, prescribing the duties of the Registrar.

(3) Any person may inspect the documents kept by the Registrar on payment of the prescribed fees; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy, or extract, of the prescribed fee.

212. Any notice, order, or other document which by this Proclamation may be or is required to be served upon a company may be served by leaving the same at, or sending it by prepaid registered post to—

- (a) the registered office of a company;
- (b) the principal place of business in Swaziland in the case of an unregistered company.

213. (1) In all proceedings under this Proclamation, all courts, judges, and persons acting judicially, and all officers, judicial or executive, of any court, or employed in enforcing the process of any court, may take judicial notice of the signature of any officer of the court, and shall take judicial notice of the official seal or stamp of any such court appended to or impressed on any document made, signed, or issued under this Proclamation or an official copy thereof.

(2) All courts, judges, commissioners, and persons acting judicially may take judicial notice of the seal, or stamp, or signature appended or subscribed (as the case may be) to an affidavit lawfully sworn or solemn declaration lawfully made for the purposes of this Proclamation.

214. (1) If any person in any statement, return, report, certificate, balance-sheet, or other document required by or for the purposes of any of the provisions of this Proclamation wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment without the option of a fine for a period not exceeding one year.

(2) If any person, on examination on oath authorized under this Proclamation, or in any affidavit solemn declaration or deposition in or about any matter arising under this Proclamation, wilfully and corruptly gives false evidence, he shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

215. Any person or persons trading or carrying on business under a name or title of which the word "Limited" is the last word shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

216. Whenever under this Proclamation a company is liable to any penalty for a default or offence, proceedings may be instituted for that default or offence against any director, manager, secretary, or other officer of the company, and the court having jurisdiction in respect of the default or offence may convict and sentence therefor any person against whom the proceedings are so instituted, unless he shall satisfy that court that the default or offence was made or committed without his knowledge, authority, or permission.

217. Every company or person charged with a default or offence under this Proclamation may be prosecuted before the court of Assistant Commissioner having jurisdiction at the place where the default is alleged to have been made or the offence to have been committed; and if the default or offence is punishable by a fine, that court of Assistant Commissioner shall have special jurisdiction to impose the maximum fine prescribed or, in a case of a continuing default or offence, the aggregate amount of the maximum fines.

Service of documents.

Judicial notice of signature of officers.

Penalties for false statements and false oaths.

Penalty for improper use of word "Limited"

Officers liable for defaults by company.

Offences and penalties.



219. This Proclamation may be cited for all purposes as the Swaziland Companies Proclamation 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

...under my Hand and Seal at *Cape Town*... this  
...day of *February*... One thousand Nine  
...and Twelve.

By Command of His Excellency the  
High Commissioner.

FIRST SCHEDULE.

and Revenues of the Transvaal repealed in so far as they are in force  
in Swaziland.

Number and Year.	Title (if any) or Subject.	Extent of Recpeal.
No. 5 of 1874.....	The Limited Liability Companies Law	The whole.
No. 6 of 1874.....	For the Incorporation of companies	The whole.
Executive Council Resolution No. 788 of 1889	Rules respecting the registration of home companies whose statutes contain provisions in conflict with the laws and interests of the country	The whole.
Executive Council Resolution No. 789 of 1889	No registration of foreign companies unless incorporated according to law	The whole.
No. 1 of 1891.....	Supplement to Law No. 5 of 1874 with reference to the limiting of the liability of the members of certain companies	The whole.
Executive Council Resolution No. 797 of 1892	Issue of shares to bearer by companies with limited liability	The whole.
Volksraad Resolution No. 311 of 1892	—	So much as gave authority to the Executive Council to promulgate the resolution.
Volksraad Resolution No. 350 of 1893	Amendment of article seventeen of Law No. 5 of 1874	The whole.
Executive Council Resolution No. 1 and adopted by General Second Volksraad	Amendment of article seventeen of Law No. 5 of 1874	The whole.
Executive Council Resolution No. 1216 of 1891	Confirmation of Second Volksraad Resolution No. 350 of 1893	The whole.
No. 1 of 1891	On the liquidation of companies	The whole.

Number and Year.	Title (if any) or Subject.	Extent of Report.
Second Volksraad Resolution No. 98 of 1894	Extension of Executive Council Resolution No. 897 of 1892 to companies incorporated and registered under Law No. 6 of 1874	The whole
First Volksraad Resolution No. 275 of 1894	Noting and accepting Second Volksraad Resolution No. 89 of 1894	The whole
Law No. 22 of 1894.	Amendment of certain provisions of laws become necessary in consequence of First Volksraad Resolution, article 1213 of 1893, in the matter of the responsibility of head officials	Article twenty-five
Ordinance No. 56 of 1903...	Societies and Associations Incorporation Ordinance, 1903	The whole.
Ordinance No. 30 of 1904...	The Limited Liability Companies Law Amendment Ordinance, 1904	The whole.

61 FIRST TABLE.

	£	s.	d.
(1) For registration of original memorandum of association...	1	0	0
(2) For registration of an altered memorandum of association or a substituted memorandum and articles of association and the Order of Court confirming the same.....	0	10	0
(3) For registration of reduction of the capital of a company and the Order of Court confirming the same.....	0	10	0
(4) For registration of change of name of a company.....	0	10	0
(5) For registering any document hereby required or authorized to be registered other than the above.....	0	5	0
(6) For making any record of any fact hereby authorized or required to be recorded by the Registrar.....	0	5	0
(7) For any certificate issued by the Registrar.....	0	7	6
(8) For inspection of any documents filed with the Registrar.....	0	2	6
(9) For inspection of the registers kept by the Registrar.....	0	1	0
(10) For altering address in register.....	0	5	0

2018.9.14

1. The name of the company is "The Derdepoort (Deep) Mining Company, Limited".

2. The registered office of the company will be situate in Swaziland.

3. The objects for which the company is established are "to purchase or lease, or otherwise acquire any mines, mining rights, and met-

3. The objects for which the company is established are to purchase, take on lease, or otherwise acquire any mines, mining rights, and metaliferous land in Swaziland, and any interest therein, to explore, work, exercise, develop and turn to account the same and to do all such other things as are incidental or conducive to the attainment of the above objects."

4 The liability of the members is limited.

5. The share capital of the company is one hundred thousand pounds divided into one hundred thousand shares of one pound each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Description of Subscribers,		No. of shares taken by each subscriber.
1. John Jones of.....	Merchant.....	200
2. Andros de Villiers of.....	Farmer.....	25
3. Peter Grant of.....	Prospector.....	30
4. L. L. Serramp of.....	General Agent.....	10
5. Isaac Morrell of.....	Printer.....	15
6. Paulus Oosthuizen of.....	Mining Engineer....	5
7. William Smith of.....	Attorney.....	10
Total shares taken.....		325

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Witness my hand and the seal of the County of \_\_\_\_\_ State of \_\_\_\_\_  
at \_\_\_\_\_ to the day signified.

FORM 11.

*Memorandum and Articles of Association of an Unlimited Company having  
a Share Capital.*

*Memorandum of Association.*

1. The name of the company is "The Patent Stereotype Company".
2. The registered office of the company will be situate in Mbabane.
3. The objects for which the company is established are "The working of a patent method of founding and casting stereotype plates of which method John Smith of Johannesburg is the sole patentee."



134

(1)

(14)  $\vdash \neg \neg A \rightarrow A$  (13) 19

...А. В.

C D

Aggregate number of shares forfeited (if any). L

Name: \_\_\_\_\_

111 -

(Signature) \_\_\_\_\_

(State whether manager or secretary)

## FOURTH SCHEDULE.

## TABLE A.

*Regulations for Management of a Company limited by Shares.*

*Preliminary.*

1. In these regulations, unless the context otherwise requires, expressions defined in the Swaziland Companies Proclamation 1912, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; the expression "foreign committee" shall mean any such committee as is appointed under article ~~eighty-nine~~ of these regulations and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Знамя.

2. The directors shall have regard to the restrictions on the commencement of the business imposed by section *eighty-five* of the Swaziland Companies Proclamation 1912, if, and so far as, those restrictions are binding upon the company.

### Shorea and Certificates of Shorea.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the company may from time to time by special resolution determine.

6. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of that class. To every such separate general meeting the provisions of these regulations relating to general meetings, and sections *seventy-three* and *seventy-five* of the Proclamation whenever applicable, shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

No share shall be offered to the public for subscription except upon the terms that the amount of subscription shall be at least 10 per cent of the nominal amount of the share, and the directors shall, as to the amount of the subscription, comply with such of the provisions of the Companies Act, 1908, and of the Proclamation, as may be applicable thereto.

Every person whose name is entered as a member in the register shall, without payment, be entitled to a certificate specifying the shares or shares held by him and the amount paid up thereon.

If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms as to evidence and indemnity as the directors think fit.

Share certificates shall be issued under the authority of the directors, and the directors may authorize thereto by resolution of the directors, any committee of the directors, or any officer of the company, to issue certificates in such form as the directors shall from time to time determine. All share certificates shall be numbered in numerical progression beginning with the number one, and each share shall be distinguished by its appropriate number.

Each member shall be entitled to one certificate for all the shares registered in his name, or to several certificates, each for a part of such shares.

A share certificate shall specify the number of shares in respect of which it is issued, and the amount paid up thereon. Every original member shall be entitled to one share certificate gratis but for every subsequent certificate the directors may make such charge as from time to time they may think fit.

A certificate for shares registered in the names of two or more persons shall be delivered to the person first named in the register as a shareholder thereof, and delivery of a certificate for a share to that person shall be a sufficient delivery to all joint holders of that share.

No part of the funds of the company shall be employed in the redemption of, or in loans upon the security of, the company's shares.

#### Lien.

The company shall have a lien on every share (not being a fully paid-up share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share, and the company shall also have a lien on shares (other than fully paid-up shares) standing registered in the name of a single person, for all moneys presently payable by him to the company; but the directors may at any time declare that the lien shall not extend to all dividends payable thereon.

The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made until the expiration of fourteen days after a notice in writing stating that the amount payable of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder of the share, or the person entitled by reason of his death or insolvency to the share.

The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the balance shall (subject to a like lien for moneys not presently payable) be paid to the person entitled to the shares prior to the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

#### Calls on Shares.

The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares; provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call, and each member shall (subject to giving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount of such call on his share.

The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of ten pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of such interest wholly or in part.

The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of a call duly made and notified, or by way of premium, as if the same had been payable by a call duly made and notified.

The directors may make arrangements on the issue of shares for a difference between classes of holders in the amount of calls to be paid and in the times of payment.

The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding without the sanction of the company in general meeting six per centum) as may be agreed upon between the member paying the sum in advance and the directors. If the whole amount of such call shall have been paid, the directors may issue those shares as fully paid-up.

#### Transfer and Transmission of Shares.

The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:—

I, A. B. of ..... in consideration of the sum of £..... (herein after called "the said sum"), do hereby transfer to the said transferee the share (or shares) numbered..... in the undertaking called the..... Company, Limited, to hold unto the said transferee his legal representatives and assigns subject to the several conditions on which I transfer the same at the time of the execution thereof; and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid. As witness our hands the..... day of..... 19.....

Witness to the signature of, etc.....

23. The directors may decline to register any transfer of shares, not being fully paid-up shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless—

(a) a fee not exceeding two shillings and sixpence is paid to the company in respect thereof; and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

24. Every instrument of transfer shall be left at a transfer office of the company at which it is presented for registration, accompanied by a certificate of the shares to be transferred. Every power of attorney given by a shareholder authorizing the transfer of shares, shall, when lodged, produced or exhibited to the company or any of its proper officers, be deemed as between the company and the donor of the power to continue and remain in full force and effect, and the company may allow that power to be acted upon until such time as express notice in writing of its revocation has been lodged at such of the company's transfer offices as the power was lodged, produced or exhibited as aforesaid. The company shall not be bound to allow the exercise of any act or matter by an agent for a shareholder unless a duly certified copy of that agent's authority be produced and lodged with the company.

25. The legal representatives of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal representatives of the deceased survivor shall be the only persons recognized by the company as having any title to the share.

26. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or instead of being registered himself, to make such transfer of the share as the deceased or insolvent could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent before the death or insolvency, but nothing herein contained shall release the estate of a deceased joint shareholder from any liability in respect of shares jointly held by him.

27. The parent or guardian of a minor and the curator bonis of a lunatic member and any person becoming entitled to shares in consequence of the death, insolvency, or arrangement with creditors, of any member or the marriage of any female member or by any lawful means other than by transfer in accordance with these regulations, may, upon producing such evidence as sustains the character in respect of which he proposes to act under this regulation, or of his title, as the directors think sufficient, transfer those shares to himself or any other person, subject always to the regulations as to transfer herein before contained.

This regulation is herein after referred to as the "transmission clause".

28. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

#### Forfeiture of Shares.

29. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

30. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

31. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

32. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

33. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of the nominal amount of the shares.

34. When any share shall have been forfeited notice of the resolution shall be given to the person in whose name the shares stood prior to the forfeiture, and an entry of the forfeiture with the date thereof shall forthwith be made in the register.

35. An affidavit or solemn declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and such declaration, and the receipt of the company for the consideration (if any) given for the share on the sale or disposition thereof shall constitute a good title to such share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

36. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time whether, on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

#### Conversion of Shares into Stock.

37. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock and may with the like sanction reconvert any stock into paid-up shares of any denomination.



The holders of stock may transfer the same or any part thereof, in whole or subject to the same restrictions as a whole subject to the terms upon which the stock was originally issued, to any person to be named or as near thereto as circumstances admit, and may from time to time fix the minimum amount of stock minimum and restrict or forbid the transfer of fractions of such minimum. The stock shall not exceed the nominal amount of the shares from the stock alone.

of the stock held, according to the amount of the stock owned by the shareholder. The provisions and advantages as regards the holding of the stock by private and other shareholders as to the right of voting at the shareholders' meetings and other matters as if they were all shareholders in the stock, and in such provision or advantage of the stock, the directors and agents of the company, in the exercise of their duties, so far as the part of the stock would not if existed, would not be liable to any action.

Share Warrants.

authorized, any foreign committee may in their discretion, with any share which is fully paid up, or application in writing signed by or on behalf of the board, or by the committee authorized by such board, or by the director or foreign committee as the case may be, to the Secretary of State, verify the identity of the person signing the certificate, and if satisfied, sign the certificate, and the amount of the debt (if any), on the warrant and such fee as the directors may from time to time require, issue a warrant, duly stamped, when stamp is required, stating that the bearer of the warrant is entitled to the shares, and may provide by coupons or otherwise for the redemption of the shares, or other moneys, on the shares included in the

the warrant shall entitle the bearer to the shares included  
shall be transferred by the delivery of the share warrant.  
the regulations of the company with respect to transfer  
shall not apply thereto.  
a share warrant shall, on surrender of a warrant

and, on payment of such sum as the  
me to time prescribe, be entitled to have his name  
in the register of members in respect of the shares

of a share warrant may at any time deposit the warrant company, and so long as the warrant remains so deposited shall have the same right of signing a requisition for calling a meeting and of attending and voting and exercising the rights of a member at any meeting held after the expiration of the time of the deposit, as if his name were inserted in the list of members as the holder of the share included in the warrant. Not more than one person shall be recognized as the holder of the share warrant. The company shall, on two days' written notice, return the deposited share warrant to the depositor. Subject as aforesaid, the share warrant shall remain in full force and effect.

share warrant, sign a requisition for calling a meeting of the company, or vote, or exercise any other privilege of a member of the company, or be entitled to receive any notices from the bearer of a share warrant shall be entitled in all respects to the same privileges and advantages as if he were named as a member in the books of the company.

The directors may from time to time make rules as to the terms (if they shall think fit) a new share warrant or coupon may be issued in place of one which has been lost, stolen or destroyed, and may from time to time make such provisions as they may think fit in relation to the renewal of share warrants or coupons in case of defacement, loss, or destruction.

*Alteration of Capital.*  
with the sanction of

Subject to any direction to the contrary that may be given by the

...section eighty-three of the Swaziland Companies Procla-  
1912, all new shares shall before issue, be offered to such persons  
the date of the offer are entitled to receive notices from the company  
in proportion, as nearly as the circumstances admit,

notice specifying the number of shares offered, and limiting which the offer, if not accepted, will be deemed to be declined, expiration of the time or on the receipt of an intimation from whom the offer is made that he declines to accept the shares. There may be cases in which it is more likely to be found that the offer of the shares may likewise be declined, and in such cases the offeror may be entitled to an offer of new shares (which cannot, in the event, be conveniently offered under this article, but which may be subject to the same provisions with reference

don, transfer, transmission, forfeiture and otherwise

share capital int: shares of larger  
existing shares;

(c) and, in addition, its existing shares or, any of them divide the amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (1) of section *thirty-nine* of the Swaziland Companies Proclamation, 1912;

(d) reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

in their discretion, for

Members or other persons any sum or sums of money for the use of the company; provided that the moneys so raised or borrowed shall not without the sanction of a special resolution exceed one-fifth of the paid-up share capital for the time being of the company.

The directors may raise or secure the repayment of such moneys and interest thereon upon such terms and conditions in all respects as they think fit, and in particular by the execution of mortgage bonds, the issue of debentures or by the creation of a charge upon the real or personal property and rights of the company charged upon all or any part of the assets of the company, both present and future, and its uncalled capital.

53. If any uncalled capital of the company is included in or charged by any mortgage bond or other security, the directors may delegate to any person or persons for the person, in whose favor the mortgage bond or security is executed, the power to make calls on members in respect of such uncalled capital, and to do so in the name of the company or otherwise, for the recovery of the moneys becoming due in respect of call so made, and to give valid receipts for such moneys, and the power so delegated shall subsist during the continuance of the mortgage bond or security, notwithstanding any change in the directors, and shall be assignable if expressed so to be.

*General Meetings.*

54. The statutory general meeting of the company shall be held within the period required by section *sixty-two* of the Swaziland Companies Proclamation, 1912.

55. A general meeting shall be held once in every year at such time and place as may be prescribed by the company in general meeting, or in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in such manner as nearly as possible as that in which meetings are to be convened by the directors.

57. The directors may, whenever they think fit, convene an extra-

Ordinary general meetings, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists as provided by and subject to the provisions of section sixty-three of the Swaziland Companies Proclamation, 1912. If at any time there shall not be within Swaziland sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

*Proceedings at General Meeting.*  
the provisions of section sixty-6

Companies Provision that, 1912, seven days' notice at the least (exclusive of the day on which the notice is served, or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of such business shall be given in manner herein after mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notice from the company; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

59. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheet, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

(10). No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, a person or persons entitled under these regulations to vote and holding not less than one-sixtieth of the issued share capital of the company and personally present at the meeting shall be a quorum.

01. If within an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday to the next succeeding day other than a public holiday; and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

62. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

(3). If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

64. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

65. At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is before or on the declaration of the result of the show of hands demanded; in case the resolution be proposed as a special or extraordinary resolution by a person or persons entitled to demand a resolution to vote and holding not less than one-tenth of the share capital represented at the meeting and, unless a poll is so demanded a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.

60. If a poll is duly demanded it shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll there shall be had to the number of votes to which each member is entitled under these regulations. Scrutinings shall be directed to declare the result of the poll and their decision, which shall be given by the chairman of the meeting, shall be final.

07. In the case of an equality of votes, whether on a show of hands, or on a poll, the chairman of the meeting at which the show of hands taken place, or at which the poll is demanded, shall be entitled to a second or casting vote.

On a poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

## **Votes of Members.**

In a show of hands every member present in person shall have one vote and every member shall have one vote for each share of which he is the holder.

In the case of joint holders the vote of the senior who tenders a vote in person or by proxy, shall be accepted to the exclusion of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

The parent or guardian of a minor and the curator bonis of a lunatic and also any person entitled under the provisions of the Companies Act, 1912, to exercise the powers of a shareholder in respect of shares may vote at any general meeting in respect of those shares if he was the registered holder of those shares at the time of the meeting or at least before the time of holding the meeting. He may also vote if he has been appointed by the directors as guardian or curator or that he is entitled under the provisions of the Companies Act, 1912, to exercise the powers of a shareholder in respect of those shares. Several persons may be deemed joint holders of those shares if their names stand in the register of members in respect of those shares.

No member shall be entitled to vote at any general meeting unless the sum presently payable by him in respect of shares in the company has been paid.

A vote may be given either personally or by proxy. A proxy shall be in writing under the signature of the person appointing the proxy, or if the person appointing the proxy is a body corporate, under the seal of the body corporate and the signature of an officer or agent authorized by the board of directors.

No person shall act as a proxy unless either he is entitled to vote at the meeting at which he acts as proxy or he is appointed by the directors as proxy for a shareholder.

A proxy shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote. The instrument of proxy shall not be treated as valid, unless it is signed by the person named in the instrument or by a proxy who has been appointed by the directors.

An instrument appointing a proxy shall be in the following form:—  
 I, the undersigned, do hereby appoint \_\_\_\_\_ as my proxy to act for me at the (ordinary or extraordinary, as the case may be) general meeting of the company to be held on the \_\_\_\_\_ day of \_\_\_\_\_ and at any adjournment thereof.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
 \_\_\_\_\_  
 Director.

The number of the directors and the names of the first directors, to be determined in writing by a majority of the subscribers of the company.

The remuneration of the directors shall from time to time be determined by the company in general meeting.

If any director be called upon to perform extra services or to make exertions in going or residing abroad, or otherwise, for any of the business of the company, the company may remunerate that director by a fixed sum or by a percentage of profits or otherwise as may be determined, and such remuneration, may be either in addition to, or in lieu of, his share in the remuneration determined under the provisions of the Companies Act, 1912.

The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of the Companies Act, 1912.

**Alternate Directors.**  
 Each director shall have the power to nominate one of the shareholders of the company, who shall be qualified to act as an alternate director in his place during his absence or inability to act as such director. The appointment of an alternate director shall be approved by the board and on such appointment being made, the alternate director shall, in all respects, be subject to the terms, qualifications, and conditions, which shall apply to the other directors of the company.

The alternate directors, whilst acting in the place of the directors, shall exercise and discharge all the duties and functions which the directors they represent. The appointment of an alternate director shall cease, and the alternate director shall cease to hold office, if the director who appointed him shall cease to be a director, or if he shall have ceased to do so, and in case of the disqualification of any alternate director during the absence or inability of the director whom he represents, the vacancy so arising shall be filled by the chairman for the time being of the directors nominating a qualified shareholder to fill the same, subject to approval of the board.

**Powers and Duties of Directors.**  
 The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the Companies Act, 1912, or any amendment thereof, prohibited to the directors, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation made by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

The directors may from time to time appoint one or more of their bodies to the office of managing director or manager for such time and on such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another) as they may think fit, and a director so appointed shall not, while holding such office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he shall cease from any cause to be a director, or if the company in general meeting shall resolve that his removal from the office of managing director or manager be determined.

The directors may from time to time entrust to or confer upon a managing director or manager for the time being such of the powers and authorities vested in them, as they may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes, and upon such terms and conditions and with such restrictions as they may think expedient; and they may confer such powers and authorities either collaterally or to the exclusion of, and in substitution for, all or any of the powers and authorities of the directors in that behalf and may from time to time revoke or vary all or any of such powers and authorities.

The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed one-half the issued share capital of the company without the sanction of the company in general meeting.

The directors shall duly comply with the provisions of the Swaziland Companies Proclamation, 1912, or any statutory modification thereof for the time being in force, and in particular the provisions in regard to keeping a register of the directors, and in regard to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

The directors shall cause minutes to be made in books provided for the purpose—  
 (a) of all appointments of officers made by the directors;  
 (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;  
 (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

**Foreign Committee.**  
 The directors may from time to time appoint persons resident in a foreign country to be a foreign committee for the company in that country and may appoint transfer offices of the company in any foreign country and close the same at their discretion, and may appoint and remove agents to represent the company in a foreign country for the issue, sub-division, and transmission of shares of that company, subject to the provisions of these regulations, and for such other purposes as the directors may, subject to these regulations, determine. The directors may further give to the members of a foreign committee or such agents the power to appoint alternate committee men or substituted agents to act during their absence and remove such alternate committee men and substituted agents and appoint others or themselves again to act for the company, and may grant to such committee men or agents the power to appoint other persons as co-committee men or joint agents.

The directors may act on a foreign committee whenever temporarily in the foreign country in which the committee is appointed, and may take part in the proceedings of such committee and have the same rights and privileges as any member of the committee permanently resident in that foreign country.

A foreign committee may—  
 (a) appoint a transfer office of the company in the foreign country for which it is appointed and pay the rent and other expenses connected therewith;  
 (b) engage and at their discretion remove or suspend a secretary, clerks, and servants in connection with the business of the company in a foreign country for which it is appointed and determine their duties and pay their salaries as fixed by the directors of the company;  
 (c) execute and sign transfers of shares in the foreign country for which it is appointed and do any act or thing necessary for effecting the transmission of such shares;  
 (d) issue and sign new certificates relating to shares transferred or to be transferred at the transfer office of the country for which the committee is appointed, replace any existing share certificates, sub-divide shares, or replace defaced or worn-out certificates upon production thereof to the committee and if any such certificate or any cheque, dividend warrant, or other document be lost or destroyed, the committee may upon proof to its satisfaction of the loss or destruction and on receiving such indemnity and giving such advertisement as it deems adequate, issue and sign a new certificate, dividend warrant, cheque, or other document in lieu thereof. A foreign committee may charge fees and expenses in respect of all or any of the acts mentioned in this paragraph which may from time to time be payable under these regulations and may by its committee or its secretary give valid receipts for such fees. Every certificate relating to shares transferred at the transfer office in the country for which the committee is appointed shall be signed by two members of that committee and countersigned by its secretary or like officer;  
 (e) issue shares and certificates therefor when thereto authorized by resolution of the board of directors in such manner or form as the directors may from time to time prescribe, subject to the provisions of these regulations;  
 (f) do in the name of and on behalf of the company all such acts and things not specifically mentioned in these regulations as may in the judgment of the committee be necessary or convenient for the exercise of any of the committee's powers.

Each member of a foreign committee may appoint an alternative committee man to act with full power during his own absence or inability to act, provided the appointment be confirmed by the foreign committee.

It shall not be necessary for a member of a foreign committee to be a shareholder of the company.

The meetings, proceedings, and acts of a foreign committee shall be governed by the provisions of these regulations relating to meetings, proceedings, and acts of directors so far as the same are applicable and are not superseded by any express powers vested from time to time in the foreign committee by the directors.



## Disqualification of Directors

109. The office of a director may be vacated—
  - (a) if he is absent from any meeting to the board of the directors for a period of three consecutive meetings; and his resignation be accepted;
  - (b) if he is elected a director by virtue of section *seventy-one* of the Companies Proclamation, 1912; or
  - (c) if he is elected a director of profit under the company except that he is not a director or manager; or
  - (d) if he is elected a director or assigns his estate for the benefit of or otherwise with his creditors; or
  - (e) if he is four times or becomes of unsound mind; or
  - (f) if he is absent from four consecutive meetings of the directors without special leave of absence given by the board provided all such four meetings are not held within a period of thirty days; provided that the board may not grant such special leave for more than six consecutive months unless the director is to be absent on the business of the company; this sub clause shall apply to a director represented by an alternate director; or
  - (g) if he is concerned or participates in the profits of any contract with the company.
110. If a director shall vacate his office by reason of his being absent from any company which has entered into contracts with or done business with the company of which he is director if he has fully disclosed his interest in such contract or work; but a director who is concerned in such contract or work, and if he does so vote shall not be counted.

## Rotation of Directors.

111. At an ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every third year of the directors for the time being, or if their number is a multiple of three, then the number nearest to one-third of the directors shall retire from office.
112. The directors shall retire in rotation, and be those who have been elected at the last election, but as between persons who became directors at the same time those to retire shall, unless they otherwise agree, be determined by lot.
113. A retiring director shall be eligible for re-election.
114. The company at the general meeting at which a director retires in accordance with the provisions of this section may elect a person to fill up the vacant office by electing a person thereto.
115. If at any meeting at which an election of directors ought to take place the places of the retiring directors are not filled up, the meeting shall adjourn till the same day in the next week at the same time and if at such adjourned meeting the places of the retiring directors are not filled up the retiring directors, or such of them as have not had their places filled up shall be deemed to have been re-elected at such adjourned meeting.
116. The company may from time to time in general meeting increase the number of directors, and may also determine in what rotation the number of directors is to go out of office.
117. Unless the shareholders otherwise determine in general meeting the number of directors in the board of directors may be filled up by electing a person to fill up the vacant office by electing a person thereto.
118. The person so chosen shall be subject to retirement at the time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.
119. The directors shall have power at any time, and from time to time, to elect a person as an additional director who shall retire from office at the next ordinary general meeting, but shall be eligible for re-election at that meeting as an additional director.
120. The company may by extraordinary resolution remove any director from office at any time, and may by an ordinary resolution appoint a person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

## Proceedings of Directors.

121. The directors may meet together for the dispatch of business, and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A meeting of the directors shall be summoned by the secretary, at the request of the directors, and unless so fixed shall (when the number of directors exceeds three) be three.
122. The directors may act notwithstanding any vacancy in the number of directors, but, if and so long as their number is reduced below the number required by the regulations of the company as the necessary number of directors the continuing directors may act for the purpose of summoning a general meeting of the company, but for no other purpose.
123. The directors may elect a chairman of their meetings and determine the powers of such chairman; but if no such chairman is elected, the chairman of the meeting shall, in the exercise of the powers so delegated, be deemed to be chairman of the meeting.
124. The directors may delegate any of their powers to committees of such member or members of their body as they think fit; and any committee so formed shall, in the exercise of the powers so delegated, be deemed to be acting in the name of the directors.
125. The directors may elect a chairman of their meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.
126. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.
127. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

## Dividends Bonus and Reserve.

128. The directors may from time to time pay to the members such dividend or bonus as appear to the directors to be justified by the profits of the company.
129. No dividend shall be paid otherwise than out of profits.

116. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid out of the profits of the company, and no dividend shall be paid unless it is paid up on any of the shares in the company, and no dividend shall be paid unless it is paid up on any of the shares in the company, and no dividend shall be paid unless it is paid up on any of the shares in the company.

117. The directors may before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserve for meeting contingencies or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied and paying such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

118. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend payable on the share.

119. Notice of any dividend that may have been declared shall be given in manner herein after mentioned to the persons entitled to share therein.

120. The directors may deduct from the dividends or bonus payable to any member all such claims or sums of money which may be due from time to time to the company on account of calls or otherwise. No dividend or bonus shall bear interest against the company, and any dividend or bonus remaining unclaimed for a period of five years from this declaration may, provided notice of the declaration has been given by advertisement to the person entitled thereto and sent to his last registered address, be forfeited by resolution of the directors for the benefit of the company.

121. Every dividend or bonus may be paid by cheque, warrant, coupon, or otherwise as the directors may from time to time determine, and shall, if paid otherwise than by coupon, either be sent by post to the last registered address of the member entitled thereto, or be given to him personally, and the receipt or endorsement on the cheque or warrant of the person whose name appears in the register as the shareholder, or his duly authorized agent or the surrender of any coupon shall be a good discharge to the company in respect thereof.

122. The company shall not be responsible for the loss in transmission of any cheque, warrant, coupon, or other document sent through the post to the registered address of any member, whether or not it was so sent at his request.

## Accounts.

123. The directors shall cause true accounts to be kept—

- (a) of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and
- (b) of the assets and liabilities of the company.

124. The books of account shall be kept at the registered office of the company or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

125. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.

126. Once at least in every year the directors shall lay before the company, in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

127. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

128. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

## Audit.

129. Auditors shall be appointed and their duties regulated in accordance with sections *ninety-nine* and *one hundred* of the Swaziland Companies Proclamation, 1912, or any amendment thereof for the time being in force in Swaziland.

## Notices.

130. A notice may be given by the company to any member either by advertisement or personally, or by sending it through the post in a prepaid letter addressed to such member at his registered address within Swaziland. Any notice which may be given by advertisement shall be inserted in the *Gazette* and in such newspapers as the directors may from time to time determine.

131. Whenever a notice is to be given personally or sent by post the notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

132. Whenever a notice is to be given personally or sent by post the notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the insolvent or by any like description at the address (if any) in Swaziland supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

133. Notice of every general meeting shall be given in some manner herein before authorized to (a) every member of the company (including bearers of share warrants) except, in the case of notices to be given personally or sent by post, those members who have no registered address within Swaziland, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member who but for his death or insolvency, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

134. Any notice given by post shall be deemed to have been served at the time when the letter containing the same is put into the Post Office, and a notice given by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the *Gazette*, and in proving the giving of the notice, and by post it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company.

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.	Nature of the provisions.
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† See section seventy-nine (3) of the Swaziland Companies Proclamation, 1912.

Signature of the persons above named as directors or proposed directors  
(or of their agents authorized in writing.)

## SIXTH SCHEDULE.

### Meetings of Creditors and Contributors.

1. The meeting of creditors and contributors shall be held within twenty-one days, or if a special manager has been appointed then within one month, after the date of the winding up order, or within such further time as the Court may approve.

2. The Master shall summon the meetings by giving not less than seven days notice of the time and place thereof in the *Gazette* and in a printed circular in Swaziland, and shall also cause the same to be read by a public person representing by the company, to be read to the creditors of the company at the meeting of creditors, and to every person appearing at the company's house or otherwise in a public place of the company, notice of the meeting of creditors.

3. The liquidator shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs, and to each person appearing from the company's books or otherwise to be a contributory of the company, a summary of the company's statement of affairs, including the causes of its failure, and any observations thereon which the liquidator may think fit to make. The proceedings at a meeting shall not be invalidated by reason of any summary or notice required by these rules not having been sent or received before the meeting.

4. The meetings shall be held at such place as is in the opinion of the Master most convenient for the majority of the creditors and contributories.

5. The Master, or some person nominated by him, shall be the chairman at the meetings.

6. A person shall not be entitled to vote as a creditor unless he has duly proved a debt to be due to him from the company, and the proof has been duly lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting.

7. A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

8. For the purpose of voting, a secured creditor shall, unless the surrenderee's security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

D. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is entitled to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a sequestration or order of insolvency has not been made, as a security in his hands, and for the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

10. The liquidator may, within twenty-eight days after the date of the meeting for the purpose of a security valuation, require the creditor to submit a statement of the value of the security, and, if the creditor fails to do so, the liquidator may, at the discretion of the court, estimate the value of the security, and the creditor, generally on payment of the value so estimated, with interest thereon of twenty per cent. Provided, that where a creditor has given his security, he may, at any time before being required to give it, or after the valuation by a new proof, and deduct the new value from his security, in that case the said addition of twenty per cent. shall not be made if the security is required to be given up.

11. The chairman shall have power to admit or reject a proof, but his decision shall be subject to appeal to the Court. If he is in doubt whether a proof should be admitted or rejected he shall mark it as objected to, and allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

12. A creditor or a contributory may vote either in person or by proxy.

13. Every instrument of proxy shall be in the prescribed form, and be signed by the liquidator, and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or other person in his regular employment, or of a justice of the peace,

14. General and special forms of proxy shall be sent to the creditors and contributors with the notice summoning the meeting, and no name nor description of any person shall be printed or inserted in the form of any instrument of proxy before it is so sent.

15. A creditor or a contributory may give a general proxy to his mate or clerk, or any other person in his regular employment. In any such the instrument of proxy shall state the relation in which the person to stand thereunder stands to the creditor or contributory.

18. A creditor or a contributory may give a special proxy to any person to vote at any specified meeting, or adjournment thereof—

(a) for or against the appointment or continuance in office of any specified person, as liquidator or member of the committee of inspection; and

(b) on all questions relating to any matter other than those referred to and arising at the meeting or an adjournment.

17. A proxy intended to be used at the first meeting of creditors or contributory, or an adjournment thereof, shall be lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting, which time shall not be earlier than two weeks before the first day of the meeting or adjourned meeting, which is named in the notice before the day appointed for that day, unless the Court otherwise directs.



18. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies, or in procuring his appointment as liquidator except by the direction of a meeting of creditors or contributories, the Court, if it thinks fit, may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised, notwithstanding any resolution of the committee of inspection, or of the creditors or contributories to the contrary.

19. The chairman may, with the consent of the meeting, adjourn it from time to time and from place to place.

20. A meeting may not act for any purpose except the proving of debts, and the adjournment of the meeting, unless there are present or represented thereat, at least three creditors entitled to vote or three contributories, or all the creditors or contributories if their number does not exceed three.

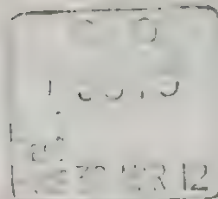
21. If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

22. The chairman shall cause minutes of the proceedings at the meeting to be drawn up, and the minutes shall be signed by him and filed of record in the Master's office.

23. No person acting either under a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the company otherwise than as a creditor ratably with the other creditors of the company. Provided that where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself as liquidator he may use the said proxies and vote accordingly.



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missing)  
WMS 15/5/1913



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to proclaim certain portions of land in Swaziland to be Crown Lands;

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council, 1903, as amended by the Swaziland Order in Council, 1906, and the Swaziland Order in Council, 1909, and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order in Council, 1908, as amended by the Swaziland Crown Lands and Minerals Amendment Order in Council, 1910, I do hereby declare proclaim and make known as follows:-

The areas of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as numbered in the said Schedule; provided always that the Proclamation of the said areas as Crown Lands shall not affect any Concession lease servitude or other right subsisting in respect of any of the said areas which is registered at the date of such publication and is not vested in the Crown.

GOD SAVE THE KING!

GIVEN under my Hand and Seal at *Cape Town*  
this *1st* day of *January* One thousand Nine  
hundred and Twelve.



*Gladstone*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*James H.*

Imperial Secretary.

LOT NO. 8.

Districts Mbabane and Ubombo.  
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Portion of land held under Land Concession No. 138 in extent 7754 morgen 391 square rods, as shewn on diagram S.G.No.8.147/11 confirmed by the Surveyor General by the figure x mid spruit w,v,b' mid Sdokoto river to s',t, mid Mhlamanti river to its junction with Great Usutu River, mid Great Usutu River to junction with Little Usutu River, mid Little Usutu River to junction with spruit at x.

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LOT NO. 9

Districts Mbabane and Ubombo  
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Portion of land held under Land Concession No. 138 in extent 5468 morgen 571 square rods, as shewn on diagram S.G.No.8.148/11 confirmed by the Surveyor General by the figure G, along southern edge of Tembe road to d, mid Mehleleleke Spruit to junction with Umzimpofu River at e, mid Umzimpofu River to f,g mid Mhlamanti River to h,z, mid spruit to its junction with Umzimnene River at y, mid Umzimnene River to junction with spruit at D mid spruit to E,F,G.

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LOT NO. 10

District Mbabane  
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Portion of land held under Land Concession No. 206 in extent 2043 morgen 97 square rods, as shown on diagram S.G.No.S.27/10 confirmed by the Surveyor General by the figure O, mid Umkondonyana river M,P, mid river X, mid river F, mid river G, mid river N, mid river K, mid river L,K,O.

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LOT NO. 11

District Mbabane  
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Portion of land held under Land Concession No. 97 in extent 2868 morgen 557 square rods, as shown on diagram S.G.No.S.154/10 confirmed by the Surveyor General by the figure H,b,s, V,W,X,Y,Z,A'B',F',G' southern edge of road to D,E,F,G,H.

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## PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to prevent the sale or exhibition in Basutoland of indecent or obscene books pictures prints and other articles;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. For the purpose of this Proclamation the word "publication" shall include any book, newspaper, pamphlet, magazine, periodical, letterpress, writing, print, picture, engraving, lithograph, photograph, drawing, or other similar representation.

2. Any person who imports into Basutoland or who within Basutoland makes, manufactures or produces any indecent or obscene publication shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.

3. Any person who sells, or distributes, or offers for sale or distribution, or who wilfully exposes or causes to be exposed to public view, any indecent or obscene publication shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or, in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and imprisonment and if such person be a male he shall notwithstanding anything to the contrary provided in the regulations contained in the High Commissioner's Proclamation No. 2b of 1884 dated the 29th day of May 1884, further be liable to whipping not exceeding twenty-four strokes in addition to any other punishment imposed upon him under this section.

4. It shall be lawful for any Assistant Commissioner if

- (a) a complaint has been made before him upon oath that the complainant has reason to believe and does believe that any indecent or obscene publication is kept in any house, shop, room, or other place within the limits of his jurisdiction for purposes of sale or distribution or for exhibition, lending upon hire or publication in any other manner; and
- (b) the complainant also states upon oath that one or more publications of the like character have been sold, or distributed, exhibited, lent, or otherwise published as aforesaid at or in connection with such place, and
- (c) the Assistant Commissioner is satisfied that the belief of the complainant is well founded and that any of the publications so kept for any of the purposes aforesaid are of such a character and description that the sale, distribution, or exposure of them would be an offence against this Proclamation and proper to be prosecuted as such;

to give authority by special warrant to any European constable or police officer to enter in the daytime any such house, shop, room, or other place with such assistance as may be necessary and, if necessary, to use force by breaking open doors or otherwise, and to search for and seize all such indecent and obscene publications as aforesaid found in any such house, shop, room, or other place and to carry all the articles so seized before the Assistant Commissioner issuing the said warrant or some other Assistant Commissioner exercising the same jurisdiction and such Assistant Commissioner shall thereupon cause a summons to issue calling upon the occupier of the house or other place which may have been so entered by virtue of the warrant to appear within seven days before any Assistant Commissioner to show cause why the articles so seized should not be destroyed. If such occupier or some other person claiming to be the owner of the said articles do not appear within the time aforesaid, or if such person does appear and the Assistant Commissioner be satisfied that such articles or any of them are of the character stated in the warrant and that such articles or any of them have been kept for any of the purposes aforesaid, it shall be lawful for such Assistant Commissioner and he is hereby required to order the articles so seized or any of them to be destroyed at the expiration of the time allowed by law for lodging an appeal against the decision of such Assistant Commissioner, unless notice of appeal be given within such time. In that event all such articles shall be impounded pending the result of such appeal. If such Assistant Commissioner

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I, W. THOMPSON, under and by virtue of the powers in me  
vested I do hereby declare and make known as  
follows:-

(a) who having entered into a contract for employment beyond the borders of the territory and signed such contract as provided by section one of Proclamation No.7 of 1909 without lawful cause deserts or absents himself from his place of employment or fails to enter upon or carry out the terms of his contract of employment; or

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shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

2. In any proceedings under the last preceding section a copy of any contract duly signed as provided by section one of Proclamation No.7 of 1909 which is certified as a correct copy by any such officer as is therein mentioned may be produced and shall thereupon be prima facie evidence of the terms of the contract.

3. It shall not be lawful for any labour agent in the territory to make any advance to any native in excess of the sum or value of £2 exclusive of any charges for railway transport or any amount due for any hut tax or fine advanced by the labour agent and no interest shall be charged by the labour agent on any advance made. Any person who shall contravene this section shall be liable on conviction to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

4. This Proclamation shall be read as one with the Bechuanaland Protectorate Native Labour Proclamation 1907 and Proclamation No.7 of 1909 and shall take effect from the date of its publication in the Gazette.

GOD SAVE THE KING!

- Given -

Given under my Hand and Seal at *Cape Town* this *27th*  
day of *February* the thousand nine hundred and twelve.

*W. H. D. M. D.*

High Commissioner

By Command of His Excellency  
the High Commissioner

*W. H. D. M. D.*

Imperial Secretary.





PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS the Labour Agents and Compound Overseers Proclamation 1901 of the Transvaal hereinafter referred to as "the said Proclamation" has been applied mutatis mutandis to the Territory of Swaziland and is in force in the said territory;

AND WHEREAS it is desirable to amend the said Proclamation as regards its application to Swaziland and to make provision for the punishment of native deserters in certain cases;

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909, I do hereby declare proclaim and make known as follows:-

1. (1) The said Proclamation as in force in Swaziland shall be and is hereby amended by the deletion of the first paragraph of Section two thereof and the substitution of the following paragraph:-

"The term 'Labour Agent' shall mean and include any person who shall himself, or through Agents or runners, in his own name or otherwise, procure, or attempt to procure, seek for, engage, conduct, take charge of, supply or undertake to supply, natives to



"be employed in work or labour of any kind beyond  
"the borders of Swaziland".

(1) The term "Labour Agent" as used in the  
Regulations made by the High Commissioner under the  
said Proclamation as in force in Swaziland, and  
published under High Commissioner's Notices No. 56 of  
1910 and No. 54 of 1911 shall have the meaning hereby  
assigned to it.

2. (1) Any native -

(a) who, having entered into a contract for  
employment beyond the borders of Swaziland  
duly attested as required by Regulation,  
without lawful cause deserts or absents him-  
self from his place of employment or fails  
to enter upon or carry out the terms of such  
contract; or

(b) who, after having in Swaziland entered  
into an agreement of service whether oral  
or in writing with a Labour Agent and after  
having received an advance in respect thereof  
accepts another advance from another Labour  
Agent in consideration of entering upon any  
other contract of service before he has  
completed his term of service under the first  
mentioned agreement;

shall be guilty of an offence and liable on conviction  
to a fine not exceeding ten pounds or, in default of  
payment, to imprisonment with or without hard labour  
for a period not exceeding two months.

(2) Any Native convicted of any offence described  
in paragraph (a, of sub-section (1) shall be ordered  
to return to work after the expiration of the sentence

imposed on him and to complete the term of his contract if his employer so desire.

(3) Any native resident of Swaziland may be charged, in the Swaziland Court having jurisdiction at the place where he resides, with any such offence as is described in this section and may be convicted thereof by such court, notwithstanding, that the offence was committed outside Swaziland. The procedure shall be as if such offence had been committed at the said place.

3. In any proceedings under the last preceding Section a copy of any duly attested contract certified as a correct copy by any officer authorised to attest contracts may be produced and shall thereupon be prima facie evidence of the terms of the contract.

4. This Proclamation shall be read as one with the said Proclamation as in force in Swaziland and shall have force and take effect from the *first* day of *April* 1912.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *27th* day of *February* One thousand Nine  
hundred and Twelve.



*H. H. D. T.*

High Commissioner  
Command of His Excellency  
the High Commissioner.

*C. H. D. T.*

Imperial Secretary.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
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WHEREAS it is expedient to amend the  
Swaziland Arms and Ammunition Proclamation 1908.

NOW THEREFORE under and by virtue of the  
powers authorities and jurisdiction conferred upon and  
committed to me by His Majesty under the Swaziland  
Order in Council 1903 as amended by the Swaziland  
Order in Council 1906 and the Swaziland Order in  
Council 1909 I do hereby declare proclaim and make  
known as follows:-

1. Sub-section three of Section eight of the  
Swaziland Arms and Ammunition Proclamation 1908 shall  
be and is hereby repealed and the following sub-section  
substituted therefor:

(3) There shall be payable in respect of every  
dealer's licence taken out before the thirtieth

day of June of any year the sum of ten pounds  
and in respect of any dealer's licence taken out  
after that date the sum of five pounds.

2. This Proclamation shall be read as one with  
the Swaziland Arms and Ammunition Proclamation 1908 and  
shall have force and take effect as from the first day  
of January 1912.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *twentyseneth* day of *February* One thousand  
Nine hundred and Twelve.



*[Signature]*

High Commissioner.

Commander of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to consolidate, amend, and declare the law in Basutoland hereinafter referred to as "the Territory" relating to bills of exchange, cheques, and promissory notes;

Now therefore under and by virtue of the powers in me vested I do hereby proclaim declare and make known as follows:—

### PART I.

#### PRELIMINARY.

1. In this Proclamation, unless the context otherwise requires—

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes a counter claim, claim of reconvention, and set off.

"Banker" includes a body of persons, whether incorporated or not, who carry on the business of banking.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and

"Note" means promissory note.

"To note" is to make a notarial minute in accustomed form of the circumstances of dishonour and at the time of dishonour of a bill or note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or endorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Endorsement" means an endorsement completed by delivery.

"Issue" means the first delivery of a bill or note, complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and

"Writing" includes print.

"Non-business days" include Sunday and any day declared to be a public holiday in the Territory by any Proclamation of the High Commissioner or appointed under the authority of any such Proclamation to be observed as a public holiday or as a solemn fast or day of thanksgiving.

"Payment in due course" means payment made at or after the maturity of a bill to the holder thereof in good faith and without notice that his title to the bill is defective.

"Month" means calendar month.

### PART II.

#### BILLS OF EXCHANGE—FORM AND INTERPRETATION.

2. (1) A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to, or to the order of, a specified person, or to bearer.

(2) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

(3) An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with

(a) An indication of a particular fund out of which the drawee is to reimburse himself, or a particular account to be debited with the amount, or



- (b) A statement of the transaction which gives rise to the bill, or
  - (c) A statement on the bill that it is drawn against specified documents attached thereto for delivery or acceptance or on payment of the bill as the case may be, or
  - (d) A statement on the bill that it is drawn under or against a specified letter of credit or other similar authority,
- is unconditional.

(4) A bill is not invalid by reason

- (a) That it is not dated;
- (b) That it does not specify the value given, or that any value has been given therefor;
- (c) That it does not specify the place where it is drawn, or the place where it is payable.

3. (1) A bill may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to, or to the order of, the drawee.

(2) Where in a bill, drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument at his option, either as a bill of exchange or as a promissory note.

4. (1) The drawee must be named or otherwise indicated in a bill with reasonable certainty.

(2) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.

5. (1) Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

(2) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

(3) Where the payee is a fictitious or non-existing person, or a person not having capacity to contract, the bill may be treated as payable to bearer.

6. (1) When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but is not negotiable.

(2) A negotiable bill may be payable either to order or to bearer.

(3) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

(4) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5) Where a bill, either originally or by endorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

7. (1) The sum payable by a bill is a sum certain within the meaning of this Proclamation although it is required to be paid—

- (a) With interest.
- (b) By stated instalments.
- (c) By stated instalments, with a provision that upon default in payment of any instalment, the whole shall become due.
- (d) According to an indicated rate of exchange to be ascertained as directed by the bill.

(2) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

(3) Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated, from the issue thereof.

8. (1) A bill is payable on demand—

- (a) Which is expressed to be payable on demand, or at sight, or on presentation; or

(b) In which no time for payment is expressed.

(2) Where a bill is accepted or endorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any endorser who so endorses it, be deemed a bill payable on demand.

9. A bill is payable at a determinable future time within the meaning of this Proclamation which is expressed to be payable—

(1) At a fixed period after date or sight.

(2) On or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

An instrument expressed to be payable on or after the occurrence of a specified event, which may or may not happen, is not a bill, and the happening of the event does not cure the defect.

10. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly: Provided that

(1) where the holder in good faith and by mistake inserts a wrong date; and

(2) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course, the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

11. (1) Where a bill or an acceptance or any endorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance or endorsement, as the case may be.

(2) A bill is not invalid by reason only that it is ante-dated, or post-dated, or that it bears date on a Sunday.

12. Where a bill is not payable on demand the day on which it falls due is determined as follows:—

(1) The Act No. 3 of 1856 of the Cape Colony is repealed, and if the date on which any bill would fall due shall be a non-business day, the due date of the bill shall be the next business day.

(2) There are no days of grace in the Territory.

(3) Where a bill is payable at a fixed period after date, after sight, or after the happening of a

specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the day of payment.

(4) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest, if the bill be noted or protested for non-acceptance or for non-delivery.

13. The drawer of a bill and any endorser may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may think fit.

14. The drawer of a bill, and any endorser, may insert therein an express stipulation

(1) negating or limiting his own liability to the holder;

(2) waiving as regards himself some or all of the holders' duties.

15. (1) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

(2) An acceptance is invalid unless it complies with the following conditions, namely:—

(a) It must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient.

- (b) It must not express that the drawee will perform his promise by any other means than the payment of money.

16. A bill may be accepted

- (1) before it has been signed by the drawer, or while otherwise incomplete;
- (2) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment;
- (3) when a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

17. (1) An acceptance is either

- (a) general; or
- (b) qualified.

(2) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn. In particular an acceptance is qualified which is

- (a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;

- (b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

- (c) local, that is to say, an acceptance to pay only at a particular specified place;

(An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.)

- (d) qualified as to time;

- (e) the acceptance of some one or more of the drawees but not of all.

18. (1) Where a simple signature on a blank paper to which a stamp has been affixed by the signer is delivered by him in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount, such stamp will cover, using the signature for that of the drawer, or the acceptor, or an endorser; and in like manner, when a bill is wanting in any material particular, the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit.

(2) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within the time agreed on or if no time be agreed on then within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact:

Provided that if any such instrument after completion is negotiated to a holder in due course it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time, and strictly in accordance with the authority given.

19. (1) Every contract on a bill, whether it be the drawer's, the acceptor's, or an endorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto:

Provided that where an acceptance is written on a bill, and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery

- (a) in order to be effectual must be made either by or under the authority of the party drawing, accepting or endorsing, as the case may be;

- (b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill. But if the bill be in the hands of a holder in due course a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.



(3) Where a bill is no longer in the possession of a party who has signed it as a drawer, acceptor or endorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

#### CAPACITY AND AUTHORITY OF PARTIES.

20. (1) Capacity to incur liability as a party to a bill is co-extensive with capacity to contract: Provided that to the validity of a bill, accepted or endorsed by a woman, the renunciation of the benefits *senatus consulti vellejani*, and *authentica si qua mulier*, shall not be requisite.

(2) Where a bill is drawn or endorsed by an infant or minor, the drawing or endorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

21. No person is liable as drawer, endorser, or acceptor of a bill who has not signed it as such: Provided that

(1) where a person signs a bill in a trade or assumed name he is liable thereon as if he had signed it in his own name;

(2) the signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners of that firm.

22. Subject to the provisions of this law, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority: Provided that nothing in this section shall affect the ratification of an unauthorized signature not amounting to forgery.

23. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority.

24. (1) Where a person signs a bill as drawer, endorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon: provided that if such person had no authority to sign for and on behalf of such principal, or in a representative character, he shall be personally liable on the said bill.

(2) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

#### THE CONSIDERATION OF A BILL.

25. (1) Valuable consideration for a bill may be constituted by

(a) any cause sufficient to support an action founded on contract or agreement;

(b) an antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2) Where value has at any time been given for a bill, the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3) Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

26. (1) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor, or endorser, without receiving value therefor, and for the purpose of lending his name to some other person.

(2) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

27. (1) A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely:—

- (a) That he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact;
- (b) That he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

(2) In particular, the title of a person who negotiates a bill is defective within the meaning of this Proclamation when he obtained the bill, or the acceptance thereof, by fraud or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to fraud.

(3) A holder whether for value or not who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

28. (1) Every party whose signature appears on a bill is *prima facie* deemed to have become a party thereto for value.

(2) Every holder of a bill is *prima facie* deemed to be a holder in due course; but if in an action on a bill it is admitted or proved that the acceptance, issue, or subsequent negotiation of the bill is affected with fraud or illegality, the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

#### NEGOTIATION OF BILLS.

29. (1) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

(2) A bill payable to bearer is negotiated by delivery.

(3) A bill payable to order is negotiated by the endorsement of the holder completed by delivery.

(4) Where the holder of a bill payable to his order transfers it for value without endorsing it, the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the endorsement of the transferor.

(5) Where any person is under obligation to endorse a bill in a representative capacity, he may endorse the bill in such terms as to negative personal liability.

30. An endorsement in order to operate as a negotiation must comply with the following conditions, namely:

- (1) It must be written on the bill itself and be signed by the endorser. The simple signature of the endorser on the bill, without additional words, is sufficient.

An endorsement written on an allonge or on a "copy" of a bill issued or negotiated in a country where "copies" are recognized, is deemed to be written on the bill itself.

- (2) It must be an endorsement of the entire bill. A partial endorsement, that is to say, an endorsement which purports to transfer to the endorsee a part only of the amount payable, or which purports to transfer the bill to two or more endorsees severally, does not operate as a negotiation of the bill.
- (3) Where a bill is payable to the order of two or more payees or endorsees who are not partners, all must endorse, unless the one endorsing has authority to endorse for the others.
- (4) Where in a bill payable to order, the payee or endorsee is wrongly designated or his name is mis-spelt, he may endorse the bill as therein described, adding, if he think fit, his proper signature.
- (5) Where there are two or more endorsements on a bill, each endorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved.
- (6) An endorsement may be made in blank or special. It may also contain terms making it restrictive.

31. Where a bill purports to be endorsed conditionally, the condition may be disregarded by the payer, and payment to the endorsee is valid whether the condition has been fulfilled or not.



32. (1) An endorsement in blank specifies no endorsee, and a bill so endorsed becomes payable to bearer.

(2) A special endorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3) The provisions of this Proclamation relating to a payee apply with the necessary modifications to an endorsee under a special endorsement.

(4) When a bill has been endorsed in blank, any holder may convert the blank endorsement into a special endorsement by writing above the endorser's signature a direction to pay the bill to, or to the order of, himself or some other person.

33. (1) An endorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed, and not a transfer of the ownership thereof, as, for example, if a bill be endorsed "Pay D. only", or "Pay D. for the account of X.", or "Pay D. or order for collection".

(2) A restrictive endorsement gives the endorsee the right to receive payment of the bill and to sue any party thereto that his endorser could have sued, but gives him no power to transfer his rights as endorsee unless it expressly authorize him to do so.

(3) Where a restrictive endorsement authorizes further transfer, all subsequent endorseees take the bill with the same rights, and subject to the same liabilities as the first endorsee under the restrictive endorsement.

34. (1) Where a bill is negotiable in its origin it continues to be negotiable until it has been—

(a) Restrictively endorsed, or

(b) Discharged by payment or otherwise.

(2) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can require or give a better title than that which the person from whom he took it had.

(3) A bill payable on demand is deemed to be overdue within the meaning, and for the purposes, of this section when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4) Except where an endorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour but nothing in this subsection shall affect the rights of a holder in due course.

35. Where a bill is negotiated back to the drawer, or to a prior endorser, or to the acceptor, such party may, subject to the provisions of this Proclamation re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

36. The rights and powers of the holder of the bill are as follows:—

(1) He may sue on the bill in his own name.

(2) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill.

(3) Where his title is defective—

(a) If he negotiates the bill to a holder in due course that holder obtains a good and complete title to the bill; and

(b) if he obtains payment of the bill the person who pays him in due course gets a valid discharge for the bill.

#### GENERAL DUTIES OF THE HOLDER.

37. (1) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

(2) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4) Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and endorsers.

38. (1) Subject to the provisions of this Proclamation, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

(2) If he do not do so, the drawer and all endorsers prior to that holder are discharged.

(3) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

39. (1) A bill is duly presented for acceptance which is presented in accordance with the following rules:—

(a) The presentment must be made by or on behalf of the holder to the drawee or to some person authorized to accept or refuse acceptance on his behalf, at a reasonable hour on a business day and before the bill is overdue.

(b) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only.

(c) Where the drawee is dead, presentment may be made to his executor.

(d) Where the drawee is insolvent or has assigned his estate, presentment may be made to him or his trustee or assignee.

(e) A presentment through the post office, if in due course, is sufficient.

(2) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(a) Where the drawee is dead or insolvent, or is a fictitious person, or a person not having capacity to contract by bill.

(b) Where after the exercise of reasonable diligence such presentment cannot be effected.

(c) Where although the presentment has been irregular, acceptance has been refused on some other ground.

(3) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured does not excuse presentment.

40. When a bill is duly presented for acceptance, and is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and endorsers.

41. (1) A bill is dishonoured by non-acceptance:—

(a) When it is duly presented for acceptance, and such an acceptance as is prescribed by this Proclamation is refused or cannot be obtained; or

(b) When presentment for acceptance is excused and the bill is not accepted.

(2) Subject to the provisions of this Proclamation, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and endorsers accrues to the holder, and no presentment for payment is necessary.

42. (1) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

(2) Where a qualified acceptance is taken, and the drawer or an endorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or endorser is discharged from his liability on the bill.

The provisions of this sub-section do not apply to a partial acceptance whereof due notice has been given. Where a bill has been accepted as to part it must be protested as to the balance.

(3) When the drawer or endorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto.

43. Subject to the provisions of this Proclamation, a bill must be duly presented for payment. If it be not so presented the drawer and endorsers shall be discharged.

A bill is duly presented for payment which is presented in accordance with the following rules:—

- (1) Where the bill is not payable on demand, presentment must be made on the day it falls due.
  - (2) Where the bill is payable on demand, then, subject to the provisions of this Proclamation presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its endorsement in order to render an endorser liable. In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.
  - (3) Presentment must be made by the holder, or by some person authorized to receive payment on his behalf, at a reasonable hour on a business day, at the proper place as hereinafter defined, either to the person designated by the bill as payer, or to some person authorized to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found.
  - (4) A bill is presented at the proper place:—
    - (a) Where a place of payment is specified in the bill, and the bill is there presented.
    - (b) Where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented.
    - (c) Where no place of payment is specified and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if known.
    - (d) In any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence.
  - (5) Where a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorized to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.
  - (6) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.
  - (7) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to his executor, if such there be, and, with the exercise of reasonable diligence, he can be found.
  - (8) A presentment through the post office, if in due course, is sufficient.
44. (1) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.
- (2) Presentment for payment is dispensed with—
- (a) Where, after the exercise of reasonable diligence, presentment, as required by this Proclamation, cannot be effected. The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment.
  - (b) Where the drawee is a fictitious person.
  - (c) As regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented.
  - (d) As regards an endorser, where the bill was accepted or made for the accommodation of that endorser, and he has no reason to expect that the bill would be paid if presented.
  - (e) By waiver of presentment, express or implied.
  - (f) Where the drawee or acceptor is insolvent or has assigned his estate.
45. (1) A bill is dishonoured by non-payment—
- (a) When it is duly presented for payment and payment is refused or cannot be obtained; or
  - (b) When presentment is excused and the bill is overdue and unpaid.
- (2) Subject to the provisions of this Proclamation, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and endorsers accrues to the holder.



46. Subject to the provisions of this Proclamation, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each endorser, and any drawer or endorser to whom such notice is not given is discharged: Provided that—

- (1) Where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission shall not be prejudiced by the omission.
- (2) Where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

47. Notice of dishonour in order to be valid and effectual must be given in accordance with the following rules:—

- (1) The notice must be given by or on behalf of the holder, or by or on behalf of an endorser who, at the time of giving it, is himself liable on the bill.
- (2) Notice of dishonour may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.
- (3) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior endorsers who have a right of recourse against the party to whom it is given.
- (4) Where notice is given by or on behalf of an endorser entitled to give notice as herein before provided, it enures for the benefit of the holder and all endorsers subsequent to the party to whom notice is given.
- (5) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment.
- (6) The return of a dishonoured bill to the drawer or an endorser is, in point of form, deemed a sufficient notice of dishonour.
- (7) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is, in fact, misled thereby.
- (8) Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf.
- (9) Where the drawer or endorser is dead, and the party giving notice knows it, the notice must be given to an executor if such there be, and, with the exercise of reasonable diligence, he can be found.
- (10) Where the drawer or endorser is insolvent notice may be given either to the person himself or to the person in whom his estate is by law vested.
- (11) Where there are two or more drawers or endorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others.
- (12) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter. In the absence of special circumstances, notice is not deemed to have been given within a reasonable time, unless—
  - (a) Where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill.
  - (b) Where the person giving and the person to receive notice reside in different places, the notice is sent off on the business day next after the dishonour of the bill, if there be a post at a convenient hour on that day; and if there be no such post on that day, then by the next post thereafter.
- (13) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill or he may give notice to his principal. If he give notice to his principal he must do so within the same

time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

- (14) Where a party to a bill receives due notice of dishonour, he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that the holder has after the dishonour.
- (15) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office.

48. (1) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct, or negligence.

When the cause of delay ceases to operate, the notice must be given with reasonable diligence.

(2) Notice of dishonour is dispensed with---

- (a) When after the exercise of reasonable diligence, notice as required by this Proclamation cannot be given to or does not reach the drawer or endorser sought to be charged.
- (b) By waiver, express or implied. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice.
- (c) As regards the drawer in the following cases, namely--
  - (1) Where drawer and drawee are the same person.
  - (2) Where the drawee is a fictitious person, or a person not having capacity to contract.
  - (3) Where the drawer is the person to whom the bill is presented for payment.
  - (4) Where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill.
  - (5) Where the drawer has countermanded payment.
- (d) As regards the endorser in the following cases, namely -
  - (1) Where the drawee is a fictitious person, or a person not having capacity to contract, and the endorser was aware of the fact at the time he endorsed the bill.
  - (2) Where the endorser is the person to whom the bill is presented for payment.
  - (3) Where the bill was accepted or made for his accommodation.

49. (1) Where a bill has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not been previously dishonoured by non-acceptance is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested, the drawer and endorsers are discharged, with the exception of the drawer or payee of a cheque on a banker as herein after defined.

(2) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(3) Subject to the provisions of this Proclamation, when a bill is noted or protested it must be noted on the day of its dishonour. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

(4) Where the acceptor of a bill becomes insolvent, or assigns his estate, or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and endorsers.

(5) A bill must be protested at the place where it is dishonoured: Provided that

- (a) When a bill is presented through the Post Office, and returned by post dishonoured, it may be protested at the place to which it is returned, and on the day of its return, if received during business hours, and if not received during business hours, then not later than the next business day.
- (b) When a bill drawn payable at the place of business or residence of some person other than the drawee, has been dishonoured by non-acceptance, it must if protested be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.



(b) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

- (a) the person at whose request the bill is protested;
- (b) the place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given, if any, or the fact that the drawee or acceptor could not be found.

(7) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(8) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, the bill must be noted or protested when necessary with reasonable diligence.

50. (1) When a bill is accepted generally, presentment for payment is not necessary in order to render the acceptor liable.

(2) When by the terms of a qualified acceptance, presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3) In order to render the acceptor of a bill liable, it is not necessary to protest it, or that notice of dishonour should be given to him.

(4) Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

#### LIABILITIES OF PARTIES.

51. A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Proclamation is not liable on the instrument.

52. The acceptor of a bill, by accepting it,

- (1) engages that he will pay it according to the tenour of his acceptance;
- (2) is precluded from denying to a holder in due course:

- (a) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill.
- (b) In the case of a bill payable to drawer's order, the then capacity of the drawer to endorse, but not the genuineness or validity of his endorsement.
- (c) In the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to endorse, but not the genuineness or validity of his endorsement.

53. (1) The drawer of a bill, by drawing it—

- (a) engages that on due presentment it shall be accepted and paid according to its tenour, and that if it be dishonoured he will compensate the holder or any endorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;
- (b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse.

(2) The endorser of a bill, by endorsing it—

- (a) engages that on due presentment it shall be accepted and paid according to its tenour, and that if it be dishonoured he will compensate the holder or a subsequent endorser, who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;
- (b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous endorsements;
- (c) is precluded from denying to his immediate or a subsequent endorsee that the bill was at the time of his endorsement a valid and subsisting bill, and that he had then a good title thereto.

54. Where a person signs a bill otherwise than as drawer or acceptor, he or she thereby incurs the liabilities of an endorser to a holder in due course.

or where a bill is cashed, the measure of damages, which shall be deemed to be liquidated damages, shall be as follows:—

- (1) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an endorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior endorser
  - (a) the amount of the bill;
  - (b) interest thereon in accordance with the stipulation if any in the bill or from the time of presentment for payment if the bill is payable on demand, or from the maturity of the bill in any other case;
  - (c) the expenses of noting, and where the protest has been extended, the expenses of the protest.
- (2) In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer, or an endorser, and the drawer or an endorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange, with interest thereon until the time of payment.
- (3) Where by this Proclamation interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

56. (1) Where the holder of a bill payable to bearer negotiates it by delivery without endorsing it, he is called a transferor by delivery.

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a bill, thereby warrants to his immediate transferee being a holder for value that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

#### DISCHARGE OF BILL.

57. (1) A bill is discharged by payment in due course or *pro tanto* by payment of part notified by endorsement on the bill if such payment be made by or on behalf of the drawee or acceptor.

(2) Subject to the provisions hereinafter contained when a bill is paid by the drawer or an endorser it is not discharged; but

(a) where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill.

(b) Where a bill is paid by an endorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent endorsements, and again negotiate the bill.

(3) Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged.

58. When a bill payable to order on demand is drawn on a banker, and the banker pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the endorsement of the payee or any subsequent endorsement was made by or under the authority of the person whose endorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such endorsement has been forged or made without authority; provided such endorsement does not purport to be that of a person who is a customer of the banker at the branch on which the said bill is drawn.

59. When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged.

60. (1) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged. The renunciation must be in writing on the bill, unless the bill is delivered up to the acceptor.

(2) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

61. (1) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

(2) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any endorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3) A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative but where a bill or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

62. (1) Where a bill or acceptance is materially altered then the liability of all parties who were parties to the bill at the date of alteration, and who did not assent to it, must be regarded as if the alteration had not been made; but any party who has himself made, authorized, or assented to the alteration, and all subsequent endorsers are liable on the bill as altered.

(2) Amongst material alterations are the following:— Any alteration of the date, the sum payable, the time of payment, the place of payment, and where a bill has been accepted generally, the addition of a place of payment without the acceptor's assent.

#### ACCEPTANCE AND PAYMENT FOR HONOUR.

63. (1) Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill, *supra* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3) An acceptance for honour, *supra* protest, in order to be valid must—

(a) be written on the bill, and indicate that it is an acceptance for honour;

(b) be signed by the acceptor for honour.

(4) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5) Where a bill payable after sight is accepted for honour its maturity is calculated from the date of noting for non-acceptance, and not from the date of acceptance for honour.

64. (1) The acceptor for honour of a bill, by accepting it, engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts.

(2) The acceptor for honour is liable to the holder and to all parties to the bill, subsequent to the party for whose honour he has accepted.

65. (1) Where a dishonoured bill has been accepted for honour, *supra* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or releasee in case of need.

(2) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be posted or forwarded for presentment not later than the business day next following its maturity for presentment to him.

(3) Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

(4) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

66. (1) Where a bill has been protested for non-payment, any person not being a party already liable thereon, may intervene and pay it *supra* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.



(3) Payment for honour *supra* protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour which may be appended to the protest or form an extension of it.

(4) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5) Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is substituted for, and succeeds to both the rights and duties of the holder, as regards the party for whose honour he pays, and all parties liable to that party.

(6) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7) Where the holder of a bill refuses to receive payment *supra* protest, he shall lose his right of recourse against any party who would have been discharged by such payment.

#### LOST INSTRUMENTS.

67. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving adequate security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer, on request as aforesaid, refuses to give such duplicate bill, he may be compelled to do so.

68. In any action or proceeding upon a bill other than a proceeding for provisional sentence, the court or a judge may order that the loss or non-production of the instrument shall not be set up by way of defence, provided an indemnity be given to the satisfaction of the court or judge against the claims of any other person upon the instrument in question.

#### BILL IN A SET.

69. (1) Where a bill is drawn in a set, each part of a set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

(2) Where a holder of a set endorses two or more parts to different persons, he is liable on every such part, and every endorser subsequent to him is liable on the part he has himself endorsed as if the said parts were separate bills.

(3) Where two or more parts of a set are negotiated to different holders in due course the holder whose title first accrues is as between such holders deemed the true owner of the bill; but nothing in this sub-section shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts gets into the hands of different holders, in due course he is liable on every such part as if it were a separate bill.

(5) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course he is liable to the holder thereof.

(6) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

#### CONFLICT OF LAWS.

70. Where a bill drawn in one country, Colony, or State is negotiated, accepted, or payable in another, the rights, duties and liabilities of the parties thereto are determined as follows:—

(1) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of every supervening contract, such as acceptance, or endorsement, or acceptance *supra* protest, is determined by the law of the place where such contract was made. Provided

(a) where a bill is issued out of the Territory it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue;

(b) where a bill, issued out of the Territory, conforms as regards requisites in form to the law of the Territory, it may for the purpose of enforcing payment thereof, be

treated as valid as between all persons who negotiate, hold or become parties to it in the Territory.

- (2) Subject to the provisions of this Proclamation, the interpretation of the contract of the drawer, endorser, acceptor, or acceptor *supra* protest of a bill, is determined by the law of the place where such contract is made:

Provided that where a bill drawn and payable in the Territory is endorsed elsewhere, the endorsement shall, as regards the payer, be interpreted according to the law of the Territory.

- (3) The duties of the holder with respect to presentment for acceptance or payment, and the necessity for, or sufficiency of, a protest or notice of dishonour, or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.
- (4) Where a bill is drawn out of but payable in the Territory, and the sum payable is not expressed in currency of the Territory, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts, at the place of payment on the day the bill is payable.
- (5) Where a bill is drawn in one country, Colony, or State and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

### PART III.

#### CHEQUES ON A BANKER.

71. A cheque is a bill of exchange drawn on a banker payable on demand. Except as otherwise provided in this part, the provisions of this Proclamation applicable to a bill of exchange payable on demand apply to a cheque.

72. Subject to the provisions of this Proclamation

- (1) where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid;
- (2) in determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case;
- (3) the holder of such cheque as to which such drawer or person is discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

73. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by

- (1) countermand of payment;
- (2) notice of the customer's death;
- (3) notice of the customer having become insolvent.

#### CROSSED CHEQUES.

74. (1) Where a cheque bears across its face an addition of

- (a) the words "and company", or any abbreviation thereof between two parallel transverse lines, either with or without the words "not negotiable"; or
- (b) two parallel transverse lines simply either with or without the words "not negotiable",
- that addition constitutes a crossing, and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

75. (1) A cheque may be crossed generally or specially by the drawer.

(2) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3) Where a cheque is crossed generally the holder may cross it specially.

(4) Where a cheque is crossed generally or specially, the holder may add the words "not negotiable".



(5) Where the cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a bank for collection, he may cross it specially to himself.

76. A crossing authorized by this Proclamation is a material part of the cheque; it shall not be lawful for any person to obliterate or, except as authorized by this Proclamation, to add to or alter the crossing.

77. (1) Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

(2) Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or to his agent for collection, being a banker.

(3) Where a cheque is crossed specially to more than one banker, except when crossed to an agent for collection, being a banker, the banker on whom it is drawn shall refuse payment thereof.

(4) Where the banker on whom the cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection, being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid:

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered, otherwise than as authorized by this Proclamation, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Proclamation, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection, being a banker as the case may be.

78. Where the banker on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially to the banker to whom it is crossed, or his agent for collection, being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

79. Where a person takes a crossed cheque which bears on it the words "not negotiable", he shall not have, and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

80. Where a banker in good faith, and without negligence, receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

81. Sections *seventy-four to eighty* of this Proclamation shall extend to any document issued by a customer of any banker, and intended to enable any person to obtain payment on demand from such banker of the sum mentioned in such document, and shall so extend in like manner as if the said document were a cheque:

Provided that nothing herein contained shall be deemed to render any such document a negotiable instrument.

#### PART IV.

##### PROMISSORY NOTES.

82. (1) A note is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is endorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

83. A note is inchoate and incomplete until delivery thereof to the payee or bearer.

84. (1) A note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenour.

(2) Where a note runs "I promise to pay", and is signed by two or more persons, it is deemed to be their joint and several note, and any note signed by two or more persons is deemed to be their joint and several note in the absence of a contrary intention appearing upon the face of it.

85. (1) Where a note payable on demand has been endorsed, it must be presented for payment within a reasonable time of the endorsement. If it be not so presented the endorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

86. (1) Where a note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable, unless the particular place mentioned is the place of business of the payee, and the note remains in his hands. In any other case presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the endorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an endorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the endorser liable; but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

87. The maker of a note, by making it—

(1) engages that he will pay it according to its tenour;

(2) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse.

88. (1) Subject to the provisions in this part, and except as by this section provided, the provisions of this Proclamation relating to bills of exchange, apply, with the necessary modifications, to notes.

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first endorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, the provisions relating to

- (a) presentment for acceptance;
- (b) acceptance;
- (c) acceptance *supra* protest;
- (d) bills in a set.

## PART V.

### SUPPLEMENTARY.

89. A thing is deemed to be done in good faith within the meaning of this Proclamation where it is in fact done honestly, whether it is done negligently or not, and the authorized sealing with a corporate seal of a corporation, or the authorized stamping with an official stamp of any bank or company, shall be deemed to be sufficient and equivalent to signature or endorsement of any such instrument or writing.

90. Where, by this Proclamation, any instrument or writing is required to be signed by any person it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person, by or under his authority.

91. Where, by this Proclamation, the reasonable or other time limited for doing any act or thing is less than four days, in reckoning such time, non-business days are excluded.

92. For the purposes of this Proclamation, where a bill or note is required to be protested within a specified time, or before some further proceeding is taken, it is

substant that the bill has been noted for protest before the expiration of the specified time or the taking of the proceedings, and the formal protest may be extended at any time thereafter as of the date of the noting.

93. Where a dishonoured bill or note is authorized or required to be protested and the services of a notary cannot be obtained at the place where the bill is dishonoured, any landowner or householder of the place may, in the presence of two witnesses, give a certificate signed by them attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill. The form given in the Schedule to this Proclamation may be used with necessary modifications, and if used shall be sufficient.

94. The provisions of this Proclamation as to crossed cheques shall apply to a warrant for payment of a dividend, to a coupon for payment of interest, and to postal or money orders.

95. Nothing in this Proclamation shall affect the provisions of or in any way restrict

- (1) any law for the time being in force relating to stamp duty, licence fees, or to the revenue;
- (2) the provisions of section *nine* of the Magistrates' Court Act of 1856 (No. 20 of 1856) of the Cape Colony;
- (3) the procedure and practice in regard to the granting of provisional sentence in judicial proceedings. But all other laws inconsistent with the provisions of this Proclamation shall be, and the same are hereby repealed.

96. Where a bill, note, or other liquid document of debt of such a nature as to be capable of sustaining a claim for provisional sentence, whether dated before or after the taking effect of this Proclamation, is payable on demand, the cause of action upon such bill, note, or other liquid document as aforesaid shall for the purposes and provisions of Act No. 6 of 1861 of the Cape Colony and subject thereto, be deemed to have accrued upon the date of such bill, note, or other liquid document, but save as aforesaid nothing in this Proclamation contained shall affect any bill, note, or cheque dated before the Proclamation shall come into force.

97. This Proclamation may be cited for all purposes as the Bills of Exchange (Basutoland) Proclamation, 1912, and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty-ninth day of February One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

#### SCHEDULE.

Form of Protest which may be used when the services of a notary cannot be obtained.

Know all men, that I, A.B., householder of in the District of Basutoland, at the request of C.D., there being no notary public available, did on the day of 19 , at demand payment [or acceptance] of the bill of exchange, hereunder written, from E.F. to which demand he made answer [state answer, if any], wherefore I, now, in the presence of G.H. and J.K. do protest the said bill of exchange.

(Signed) A.B.  
G.H. } Witnesses.  
J.K. }

N.B.—The bill itself should be annexed, or a copy of the bill, and all that is written thereon should be underwritten.

## PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to establish public holidays within Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section *one* of Act No. 3 of 1856 of the Cape of Good Hope in so far as it relates to bills of exchange and promissory notes becoming due and payable on the Queen's Birthday or Whit Monday and declares those days holidays for the purpose of such bills or notes shall be and is hereby repealed as regards its application to Basutoland together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation.

2. The days named in the Schedule to this Proclamation shall be public holidays within Basutoland; provided that—

(a) when any of the said days fall on a Sunday the following Monday shall be observed as a public holiday; and

(b) when Boxing Day falls on a Monday the following Tuesday shall be observed as a public holiday.

3. The High Commissioner may from time to time by notice in the *Gazette* appoint any day not named in the Schedule to this Proclamation, but specified in that notice, to be observed as a public holiday within Basutoland.

4. Any reference in any law in force in Basutoland to public holidays shall be deemed to be a reference to public holidays as named by or appointed under the provisions of this Proclamation and no other days.

5. This Proclamation may be cited for all purposes as the Public Holidays (Basutoland) Proclamation 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty-ninth day of February One thousand Nine Hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

## SCHEDULE.

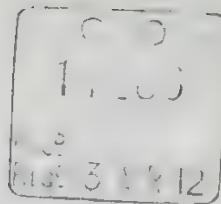
### PUBLIC HOLIDAYS.

New Year's Day.  
Good Friday.  
Easter Monday.  
Ascension Day.  
Victoria Day (24th day of May).  
Union Day (31st day of May).  
King's Birthday (3rd day of June).  
The first Monday in October.  
Christmas Day.  
Boxing Day (26th day of December).

(Printed by the Government Printer, Pretoria.)



No. \_\_\_\_\_ of 1912.



P R O C L A M A T I O N

By His Excellency the High Commissioner.  
-----

WHEREAS it is expedient further to amend the High Commissioner's Proclamation No.26 of 1908 providing for pensions to persons employed in the service of the Government of the Bechuanaland Protectorate (hereinafter referred to as "the said Proclamation")

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. Section seventeen of the said Proclamation section two of Proclamation No.6 of 1908 section two of Proclamation No.61 of 1908 and Proclamation No.5 of 1909 shall be and are hereby repealed and the following section shall be and is hereby substituted for section seventeen of the said Proclamation:-

"17. Any officer who has been transferred from service in a pensionable office under the Crown in any other portion of His Majesty's dominions or in any other territory under the protection of His Majesty to a pensionable office in the Bechuanaland Protectorate and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of his entire period of service under the Crown in a pensionable office such pension as would have been payable to him if the whole of such service had been in



the Bechuanaland Protectorate notwithstanding that he may not have completed ten years actual service in the Protectorate provided however that the amount of any sum payable by the Government of any other portion of His Majesty's dominions or of any other territory under the protection of His Majesty towards the pension of any such officer may if such sum is not paid into Protectorate funds be deducted from the pension payable to such officer out of Protectorate funds."

2. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING!

Given under my Hand and Seal at *Cape Town* this *Eight* day of *March* One thousand Nine hundred and Twelve.



*M. M. M. M.*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*C. M. M.*  
Imperial Secretary.

# PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient further to amend the High Commissioner's Proclamation No. 13 of 1908 providing for pensions to persons employed in the service of the Government of Basutoland (hereinafter referred to as "the said Proclamation");

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Section *seventeen* of the said Proclamation section *two* of Proclamation No. 60 of 1908 and Proclamation No. 4 of 1909 shall be and are hereby repealed and the following section shall be and is hereby substituted for section *seventeen* of the said Proclamation:—

" 17. Any officer who has been transferred from service in a pensionable office under the Crown in any other portion of His Majesty's dominions or in any other territory under the protection of His Majesty to a pensionable office in Basutoland and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of his entire period of service under the Crown in a pensionable office such pension as would have been payable to him if the whole of such service had been in Basutoland notwithstanding that he may not have completed ten years actual service in Basutoland: provided however that the amount of any sum payable by the Government of any other portion of His Majesty's dominions or of any other territory under the protection of His Majesty towards the pension of any such officer may if such sum is not paid into Basutoland funds be deducted from the pension payable to such officer out of Basutoland funds."

2. Schedule A to the said Proclamation shall be and is hereby amended by the addition thereto—

(1) under the heading "Establishments" of "Accounting Clerk to the Financial Secretary";

(2) under the heading "Hospitals" of "Assistant Medical Officer, Maseru"; and

(3) under the heading "Public Works" of "Assistant Engineer".

3. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Eighth day of March One thousand Nine hundred and Twelve.

GLADSTONE.

High Commissioner.

By Command of His Excellency the High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

PROCLAMATION.

By His Excellency the High Commissioner.  
-----

WHEREAS it is expedient further to amend the High Commissioner's Proclamation No.9 of 1908 providing for pensions to persons employed in the service of the Government of Swaziland (hereinafter referred to as "the said Proclamation")

NOW KNOW YE Under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. Section seventeen of the said Proclamation section two of Proclamation No.59 of 1908 and Proclamation No.3 of 1909 shall be and are hereby repealed and the following section shall be and is hereby substituted for section seventeen of the said Proclamation:-

"17. Any officer who has been transferred from service in a pensionable office under the Crown in any other portion of His Majesty's dominions or in any other territory under the protection of His Majesty to a pensionable office in Swaziland and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of his entire period of service under the Crown in a pensionable office such pension as would have been payable to him in the whole of such service

had been in Swaziland notwithstanding that he may not have completed ten years actual service in Swaziland; provided however that the amount of any sum payable by the Government of any other portion of His Majesty's dominions or of any other territory under the protection of His Majesty towards the pension of any such officer may if such sum is not paid into Swaziland funds be deducted from the pension payable to such officer out of Swaziland funds."

2. Nothing in this Proclamation shall affect in any way whatsoever any pension already granted under any law repealed by this Proclamation

3. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING!

Given under my Hand and Seal at *Capetown* this  
*Eighth* day of *March* One thousand Nine  
hundred and Twelve.



*Gludstone*

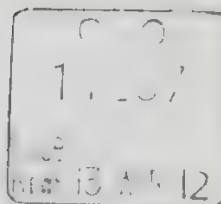
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*W. H. Hall*

Imperial Secretary.

PROCLAMATION



By His Excellency the High Commissioner.

-----

WHEREAS it is desirable to make provision for the regulation and control of Cinematograph and similar Exhibitions in the Bechuanaland Protectorate;

NOW THE GOVERNOR under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. (1) It shall not be lawful without the written permission of the Resident Commissioner for any person to conduct or allow to be presented or given by means of a Cinematograph or other similar apparatus, any exhibition of pictures or other optical effects in the Bechuanaland Protectorate on premises to which the public generally or any section thereof are admitted.

(2) The Resident Commissioner may in his discretion grant or refuse any such permission and in the grant thereof may attach such conditions as in his opinion are necessary for securing the safety of the public and for prohibiting and preventing the exhibition of offensive or indecent or obscene pictures or optical effects.

2. Any person who contravenes the provisions of section one of this Proclamation or any condition of a permission granted thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.



3. (1) In any prosecution for any such offence the accused shall be deemed not to have the permission mentioned in section one unless he produce the same or give other satisfactory proof of his possession thereof.

(2) Where proof is required in any such prosecution of the terms of any such permission or of any condition attached thereto a copy thereof certified by the Government Secretary to be a true copy shall be accepted in evidence and shall be of like value and effect as the original.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING!

Given under my Hand and Seal at *Cape Town* this  
*Eighth* day of *March* One thousand Nine  
hundred and Twelve.



*H. H. H. H.*

High Commissioner.

By Command of His Excellency  
the High Commissioner,

*C. H. H. H.*

Imperial Secretary.

No. 19 of 1912.]

# PROCLAMATION

By HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make provision for the regulation and control of cinematograph and similar exhibitions in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. (1) It shall not be lawful without the written permission of the Resident Commissioner for any person to conduct or allow to be presented or given by means of a cinematograph or other similar apparatus, any exhibition of pictures or other optical effects in Basutoland on premises to which the public generally or any section thereof are admitted.

(2) The Resident Commissioner may in his discretion grant or refuse any such permission and in the grant thereof may attach such conditions as in his opinion are necessary for securing the safety of the public and for prohibiting and preventing the exhibition of offensive or indecent or obscene pictures or optical effects.

2. Any person who contravenes the provisions of section one of this Proclamation or any condition of a permission granted thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

3. (1) In any prosecution for any such offence the accused shall be deemed not to have the permission mentioned in section one unless he produce the same or give other satisfactory proof of his possession thereof.

(2) Where proof is required in any such prosecution of the terms of any such permission or of any condition attached thereto a copy thereof certified by the Government Secretary to be a true copy shall be accepted in evidence and shall be of like value and effect as the original.

4. This Proclamation shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Eighth day of March One thousand Nine hundred and Twelve.

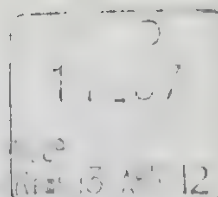
GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 21 of 1912.



## PROCLAMATION

By His Excellency the High Commissioner.

-----

WHEREAS it is desirable to make provision for the regulation and control of Cinematograph and similar Exhibitions in Swaziland:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1906 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. (1) It shall not be lawful without the written permission of the Resident Commissioner for any person to conduct or allow to be presented or given by means of a Cinematograph or other similar apparatus, any exhibition of pictures or other optical effects in Swaziland on premises to which the public generally or any section thereof are admitted.

(2) The Resident Commissioner may in his discretion grant or refuse any such permission and in the grant thereof may attach such conditions as in his opinion are necessary for securing the safety of the public and for prohibiting and preventing the exhibition of offensive or indecent or obscene pictures or optical effects.

2. Any person who contravenes the provisions of section one of this Proclamation or any condition of a permission granted thereunder shall be guilty of an offence

and shall be liable on conviction to a fine not exceeding Twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

3. (1) In any prosecution for any such offence the accused shall be deemed not to have the permission mentioned in section one unless he produce the same or give other satisfactory proof of his possession thereof.

(2) Where proof is required in any such prosecution of the terms of any such permission or of any condition attached thereto a copy thereof certified by the Government Secretary to be a true copy shall be accepted in evidence and shall be of like value and effect as the original.

4. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

GOD SAVE THE KING!

Given under my Hand and Seal at *Cape Town* this  
*Eighth* day of *March* One thousand Nine hundred  
and Twelve.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

No. 21 of 1912.]

### PROCLAMATION

By His EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make further provision out of the public revenue or other funds of Basutoland for the service of the nine months ending the thirty-first day of March 1912.

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue or other funds of Basutoland are hereby charged towards the service of the nine months ending the thirty-first day of March 1912 with a further sum of £3577 (three thousand five hundred and seventy-seven pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the schedule annexed hereto and shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

3. This Proclamation may be cited as the Basutoland Additional Appropriation 1911-12 Proclamation 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twelfth day of March One thousand Nine hundred and Twelve.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary.

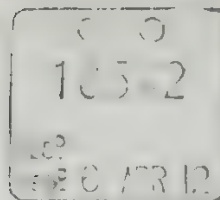
### SCHEDULE.

No.	Head of Service.	Amount.
5	Medical Expenses ... ..	£300
6	Office Contingencies ... ..	500
8	Administration of Justice ...	1,050
10	Hospitals ... ..	300
14	Miscellaneous ... ..	1,050
17	Pensions... ..	125
		£3,325
	Capital Expenditure:—	
	Leper Settlement ... ..	250
		£3,575

Printed by the Government Printer, Pretoria.



No. 22 of 1912.



# PROCLAMATION

By His Excellency the High Commissioner.

*(with verbal criticism)*

WHEREAS it is expedient in order to facilitate the administration of justice in Swaziland to amend certain of the provisions of the Swaziland Administration Proclamation 1907 (hereinafter referred to as the "principal law") and to repeal and amend certain other Proclamations dealing with the administration of justice in Swaziland.

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. The laws mentioned in the first column of the Schedule hereto shall be and are hereby repealed to the extent set forth in the second column of the said Schedule.

2. Section twelve of the principal law shall be and is hereby amended by the deletion therefrom of the words "Resident Commissioner" wherever they occur therein and by the substitution therefor in each case of the words "Special Court of Swaziland".

3. Section thirteen of the principal law shall be and is hereby amended by the deletion therefrom of the words "Court of Resident Commissioner" and by the substitution therefor of the words "Special Court of Swaziland".

4. Section fifteen of the principal law shall be and is hereby repealed and the following provisions shall be and are hereby substituted therefor:

(1) There shall be and is hereby established a Court to be called the Special Court of Swaziland to be holden in Mbabane in Swaziland and such Court shall be a Court of Record.

(2) The said Court shall consist of a President who shall be appointed by the High Commissioner and shall be an Advocate admitted to practise in the Transvaal Provincial Division of the Supreme Court of South Africa and the following members:-

The Resident Commissioner, Deputy Resident Commissioner and all Assistant Commissioners appointed to areas defined under Section eleven.

(3) The said Special Court shall have cognizance of all pleas and jurisdiction in all civil and criminal causes and proceedings arising or which shall have arisen in Swaziland and including the right of reviewing the proceedings of and hearing appeals from any inferior Court of Justice in Swaziland.

(4) In all proceedings three of the members (including the President) of the said Special Court shall form a quorum and shall be competent to execute all and every the powers jurisdictions and authorities hereby or by any other law granted to and vested in the said

Special

Special Court, and the decision of the majority of the members in case of any difference of opinion shall in all cases be deemed and taken to be the decision of the Court; provided that in every criminal case in which there is a difference of opinion between the members of the Court and the majority find the accused guilty the member dissenting shall state his reasons in writing for the information of the High Commissioner.

(5) The pleadings and proceedings of the said Special Court shall be carried on and the sentences decrees judgments and orders thereof pronounced and declared in open Court and not otherwise provided however that at any time during a criminal trial the President of the Court may if he thinks fit order the Court to be cleared or that any persons or class of persons shall leave the Court. The several pleadings and proceedings of the said Special Court shall be in the English language.

(6) At any time when the said Special Court shall not be in session either the Resident Commissioner or the Deputy Resident Commissioner in his capacity as member of the said Special Court shall be competent

(a) to exercise the civil and criminal jurisdiction of the said Special Court under Sections twelve and thirteen of the principal law as amended by this Proclamation; and

(b) to exercise the civil jurisdiction of the said Special Court in all actions and applications (including applications for arrests and interdicts of persons and things) in all actions for provisional sentence in all other cases in which either the Plaintiff or the defendant is in default or <sup>in</sup> which consent to judgment is filed

by the Defendant and in any case in which all parties shall apply to have the case tried before the Resident Commissioner or the Deputy Resident Commissioner as the case may be in his capacity as member of the said Special Court and such member shall see fit to grant such application: provided always that in any case other than a review of criminal proceedings under section twelve of the principal law as amended by this Proclamation as appeal shall lie to the full court against any judgment order or decree made or granted by the Resident Commissioner or the Deputy Resident Commissioner under this sub-section and in hearing such appeal such court shall have power to take such further evidence as it may deem necessary either orally or on affidavit or by deposition before a Commissioner and it shall further have power to give any judgment or make any order which the Resident Commissioner or Deputy Resident Commissioner might have given or made or to make such further order as the case may require.

(7) Subject to the provisions of this Section whenever in any law in force in Swaziland the High Court of the Transvaal, the Supreme Court of the Transvaal, or the Court of Resident Commissioner for Swaziland is required or empowered to do any act the Special Court of Swaziland established by this Section shall be required or empowered to do the like. And where in any law or Rule of Court the words "court" or "judge" or "judge in Chambers" shall appear the said words shall subject to the provisions of this Section be construed to mean "Special Court" or "Resident Commissioner or Deputy Resident Commissioner" as the case may require.



(8) So far as is consistent with this Section the laws in force in the Transvaal on the first day of October 1924 creating and establishing Superior Courts shall so far as possible apply to the said Special Court and to the procedure therein; and the procedure governing appeals under sub-section (6) hereof shall be the same as is provided for appeals from the Witwatersrand High Court under the aforesaid laws of the Transvaal, subject always to the powers conferred on the High Commissioner by Section twenty hereof.

(9) There shall be at least two terms in the year for the despatch of the business of the said Special Court of Swaziland, the first commencing in January and the second in July on such days as the High Commissioner may fix by notice in the Gazette and in each case extending until the business of the said Court shall be completed; the said Special Court shall also sit at such other times as the High Commissioner may appoint by notice in the Gazette.

(10) Where any civil action shall be commenced in the Special Court of Swaziland for or upon any cause or action for which an action might have been commenced in some Court of Assistant Commissioner, if in such action judgment shall be given for the plaintiff for a sum less than five hundred pounds exclusive of interest in the case of an action founded upon a liquid document or for a sum less than two hundred and fifty pounds in the case of an action for the recovery of the price of any merchandise goods or other movable property or for a sum less than one hundred pounds in the case of an action for or upon any



cause of action other than as aforesaid, such plaintiff shall not recover any costs exceeding the estimated amount of the costs which he would in the same case have recovered in the court of Assistant Commissioner had he brought his action therein; and if in such action judgment shall be given in favour of the defendant he shall be entitled to his costs as between attorney and client; unless in either case the said Special Court shall find and record that there were reasonable grounds for bringing the action in such court; provided however that this sub-section shall not apply to any of the following cases that is to say:-

(a) To a case the plaintiff in which resides in a district other than that in which the defendant resides and in which no part of the cause of action arose in such last mentioned district

(b) To a case in which the claim or demand is founded upon any notarial or other mortgage bond or bill or exchange or promissory note or other liquid document of which the lawful holder does not reside in the same district with the defendant;

(c) To a case in which an action is brought against any officer of a Court of Assistant Commissioner for or on account of anything relating to his conduct in his office.

The term "district" shall for the purpose of this sub-section mean an area defined under section eleven of the principal law as the area within which any Court of Assistant Commissioner shall have and exercise jurisdiction.

7.

5. Section seventeen of the principal law shall be and is hereby amended by the deletion therefrom of the words "Court of".

6. Section eighteen of the principal law shall be and is hereby amended by the deletion therefrom of the words "Court of Resident Commissioner or".

7. All proceedings civil or criminal (other than any appeal under Section seventeen of the principal law) pending at the date of the taking effect of this Proclamation in the Court of the Resident Commissioner or the Special Court of Swaziland shall be taken to be removed from such date into the Special Court of Swaziland as hereby established and shall be dealt with and determined by such Court in accordance with the provisions of this Proclamation; provided that in the taxation of bills of costs in any such proceedings the fees recoverable in respect of any matter or thing done prior to such date shall be in accordance with the tariff of fees prescribed for the Court in which such proceedings were pending.

8. This Proclamation may be cited for all purposes as the "Swaziland Superior Courts Amendment Proclamation 1912" and shall be read as one with the principal law and shall take effect from the date of

its publication in the Gazette.

GOD SAVE THE KING

Given under my Hand and Seal at *Cape Town* this  
*Eighteenth* day of *March* One thousand nine  
hundred and Twelve.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

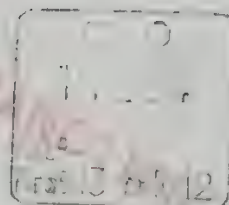
*[Signature]*

Imperial Secretary.

SCHEDULE.

<u>Laws repealed.</u>	<u>Extent of repeal.</u>
Swaziland Administration Proclamation 1907 (No. 4 of 1907)	Sections <u>fourteen</u> and <u>sixteen</u> .
Proclamation No. 36 of 1907	The whole.
Proclamation No. 69 of 1908	The whole.
Proclamation No. 3 of 1911	Sections <u>two</u> and <u>three</u>
Proclamation No. 58 of 1911	Section <u>two</u> .

PROCLAMATION



BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to make further provision out of the public revenue of the Bechuanaland Protectorate for the service of the year ending the thirty-first day of March 1912;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The public revenue of the Bechuanaland Protectorate which shall for the purposes of this Proclamation be deemed to include the amount voted by the Parliament of the United Kingdom of Great Britain and Ireland as a grant in aid of the revenue of the Protectorate is hereby charged towards the service of the year ending the thirty-first day of March 1912 with a further sum of £1,770 (One thousand seven hundred and seventy pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.



3. This Proclamation may be cited as the  
Bechuanaaland Protectorate Additional Appropriation  
1911-12 Proclamation 1912 and shall have force and take  
effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Cape Town*  
this *twentieth* day of *March* One thousand  
Nine hundred and Twelve.



*[Signature]*  
High Commissioner.

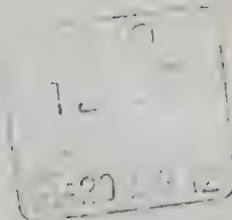
By Command of His Excellency  
the High Commissioner

*[Signature]*  
Imperial Secretary.

SCHEDULE

No.	Head of Service	Amount
3	Legal	£1,400
10	Public Works Extraordinary	300
12	Education	70
		<hr/>
		£1,770
		<hr/>

*(with amendment)*



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to make further provision out of the public revenue of Swaziland for the service of the year ending the thirty-first day of March 1912;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclain and make known as follows:-

1. The public revenue of Swaziland is hereby charged towards the service of the year ending the thirty-first day of March, 1912 with a further sum of £1580 (One thousand five hundred and eighty pounds).

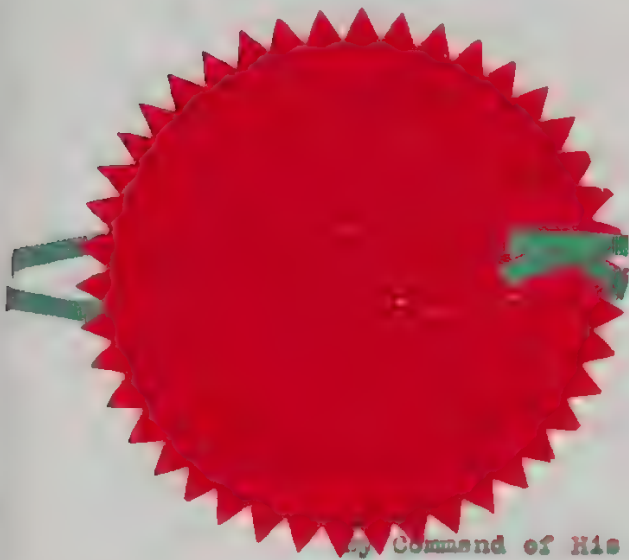
2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and shall not be issued or applied to any use interest or purposes other than the particular services to which the said amounts have been granted respectively by this Proclamation.

3. This Proclamation may be cited as the Swaziland Additional Appropriation 1911-1912 Proclamation

- - -  
1912 and shall have force and take effect from the  
date of its publication in the Gazette.

G O D S A V E T H E K I N G !

GIVEN under my Hand and Seal at *Lebanon*  
this *twenty second* day of *March* One thousand Nine  
hundred and Twelve.



*William*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

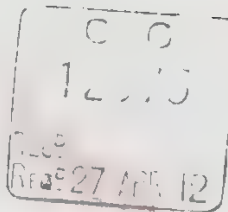
*William*  
Imperial Secretary.

SCHEDULE.

Vote.	Head of Service.	Amount
5.	Census	30
7.	Public Works	925
14.	Refunds of Revenue	310
15.	Miscellaneous	<u>315</u>
		<u>1580</u>



AUTHENTICATED COPY



★ No. 25 of 1912.]

### PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

WHEREAS it is expedient to amend the law relating to prospecting and mining for precious metals and base metals belonging to the Crown in Swaziland;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:—

1. The laws mentioned in the schedule to this Proclamation shall be and are hereby repealed to the extent set forth in the second column of such schedule as regards their application to Swaziland in so far as they are in force *mutatis mutandis* therein.

2. In this Proclamation unless inconsistent with the context

“arbitration” shall mean arbitration in accordance with the provisions of the Arbitration Ordinance 1904 of the Transvaal as in force in Swaziland and any amendment thereof;

“base metals” shall mean quicksilver iron lead copper tin zinc cobalt nickel arsenic manganese antimony bismuth as well as the ores of such metals and sulphur coal graphite or any other mineral substance with the exception of lime stone sand and clay for the exploitation of which no special provision is made by law;

“claim” shall mean a portion of any Crown mineral area lawfully pegged as a claim and on which the right to prospect and dig for precious or base metals has been lawfully obtained;

“Crown mineral area” shall mean any area defined as such by the Resident Commissioner by notice in the *Gazette* in respect of which there exist rights to precious or base metals which are vested in the High Commissioner or other authority representing the Crown whether under the Swaziland Crown Lands and Minerals Order-in-Council 1908 as amended by the Swaziland Crown Lands and Minerals Amendment Order-in-Council 1910 or otherwise;

“diagram” shall mean a diagram prepared by a person lawfully admitted to practise as a land surveyor;

“dig” shall mean intentionally to win precious or base metals (as the case may be) from the earth and shall include all excavating necessary for the purpose whether by underground working open cutting boring or otherwise;

“imprisonment” shall mean imprisonment either with or without hard labour;

“mine” when used as a verb shall have the same meaning as “dig”;

“mining title” shall mean a special authority to mine or a prospecting or digger's licence or other right to mine granted under this Proclamation or any amendment thereof or any right or title to mine granted under any law repealed by this Proclamation;

"precious metals" shall mean (a) gold and silver and their ores and gold or silver found in combination with a base metal where such gold or silver cannot be worked apart from such base metal and the value of the gold or silver exceeds the cost of producing both such precious and base metals (b) any other metal (not being a base metal) declared by the High Commissioner by notice in the *Gazette* to be a precious metal for the purposes of this Proclamation and the regulations;

"prospecting" shall include all work which is necessary for or incidental to the search for precious or base metals;

"prospecting licence" shall mean such licence as is mentioned in sections *seven* and *seventeen*;

"digger's licence" shall mean a licence mentioned in sub-sections (3) and (4) of section *seventeen*;

"prospector" shall mean the person or persons by whom or on whose behalf a prospecting permit or licence is held under this Proclamation or to whom a special authority to prospect has been granted under section *five* sub-section (3);

"regulation" shall mean a regulation made by the High Commissioner under the powers of this Proclamation.

3. The supervision and control of prospecting and mining on Crown mineral areas shall be vested in the Resident Commissioner who shall exercise all rights powers and jurisdiction conferred upon him by this Proclamation or any other law in respect of Crown mineral areas subject to any instructions or regulations not inconsistent therewith issued or made by the High Commissioner from time to time.

4. The High Commissioner may from time to time appoint such other officers as he may consider necessary to assist the Resident Commissioner in carrying out the provisions of this Proclamation and any regulations made hereunder.

5. (1) Subject to the provisions of this Proclamation
  - (i) prospecting for precious or base metals under the authority of a prospecting permit; and
  - (ii) prospecting and mining for precious or base metals under the authority of a prospecting licence

may be carried on on Crown mineral areas open for the purpose.

(2) Such areas shall not be open for prospecting and mining under this section until by notice in the *Gazette* the Resident Commissioner has declared them so open and shall only be open to prospecting and mining for such precious or base metals as may be indicated in such notice and the Resident Commissioner may in such or any subsequent notice attach conditions to the prospecting and mining and may in his discretion declare a portion only of any Crown mineral area to be so open. The Resident Commissioner may at any time by like notice withdraw from prospecting and mining any land declared open to prospecting and mining under this section without prejudice to any rights acquired under any prospecting licence or permit while the land was so open.

(3) The Resident Commissioner may grant a special authority to prospect and mine for any precious or base metals on such terms and for such period as the High Commissioner shall approve:—

(a) On any Crown mineral area or any portion thereof which is not open for prospecting and mining.

(b) On any Crown mineral area or any portion thereof which is open for prospecting or mining but which on account of the abandonment of claims or otherwise appears to the Resident Commissioner not to be suitable for working as claims under licences.

(4) Any person who may prove to the satisfaction of the Resident Commissioner that he has prior to the date of the taking effect of this Proclamation discovered precious metals or base metals on a Crown mineral area may if the Resident Commissioner sees fit be granted in respect of such area or any other Crown mineral area or any portion thereof the privileges mentioned in sub-section (3) of this section; provided that he shall have given notice in writing of such discovery to the Resident Commissioner within sixty days after the taking effect of this Proclamation.

6. (1) Subject to the provisions of this Proclamation a prospecting permit shall upon application be issued by the Resident Commissioner or other person authorized thereto by him to any white person of the age of sixteen years or upwards either on his own behalf or on behalf of another such person or persons or of an incorporated company. Every prospecting permit shall be in the form prescribed by regulation.

(2) A prospecting permit shall be available for prospecting for precious or base metals on Crown mineral areas open to such prospecting in terms of section *five* subject to the provisions of this Proclamation provided that no prospecting under prospecting permit shall be allowed on ground held under mining title. A prospecting permit shall be in force for twelve months from the date of its issue and a fee of five shillings shall be payable therefor.

(3) A prospector shall for the purpose of authorized prospecting be entitled to graze free of cost four draught animals and with the written consent of the Resident Commissioner or other person authorized thereto by him such additional number of draught animals up to sixteen as may appear necessary. The prospector shall further have the right for his personal requirements to use such water (not being water artificially conserved) and to take so much dead wood as the Resident Commissioner or such other person may authorize in writing.

7. Every white person of the age of sixteen years or upwards may subject to the provisions of this Proclamation and on payment of licence moneys in accordance with section *seventeen* obtain from the Resident Commissioner or other person authorized thereto by him a licence called a "prospecting licence" entitling the holder during a period of one month to peg in the manner prescribed by regulation upon any portion of a Crown mineral area declared by any one notice issued under section *five* open to prospecting and mining the number of claims authorized by the licence and of the nature referred to in the notice but not exceeding fifty in the case of precious metal claims or one hundred in the case of base metal claims. A prospecting licence entitling the holder to peg precious metal claims shall include the right to peg base metal claims on any Crown mineral area or portion thereof declared open for prospecting and mining for base metals.

8. (1) It shall not be lawful to peg a claim save as is otherwise provided in section *fourteen* with respect to pegging under a prospecting permit unless the licence-holder or his representative is present with his licence on the ground which he desires to peg nor shall it be lawful to peg a claim in any place where prospecting is forbidden by this Proclamation or which has been reserved or pointed out as reserved under this Proclamation from pegging.

(2) No claim shall be pegged between sunset and sunrise nor on Sunday or a day declared by law a public holiday.

(3) Any person contravening the provisions of sub-sections (1) or (2) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.

9. A claim shall be 150 feet in breadth and 400 feet in length; and in the case of a reef claim the breadth shall be taken along the strike of the reef and the length across the strike. Every claim shall as far as possible be pegged

in a rectangular shape and where the nature of the ground will not permit of its being so pegged it shall not exceed 60,000 square feet.

10. (1) Every person pegging a claim shall report such pegging to the beacon inspector within twenty-one days and within seven days thereafter shall indicate the angular points of the claim by the beacons required by regulation.

(2) Every such person shall also within one month from the date of pegging or before renewal of the licence lodge at the office of the Resident Commissioner

(a) a certificate of the beacon inspector concerned that the ground has been pegged and beacons erected in accordance with this section;

(b) a sketch plan showing the situation of the claim or claims and such other particulars as are prescribed by regulation.

11. (1) The Resident Commissioner may before or after the lodging of a sketch plan require a diagram to be lodged if in his opinion the same is necessary or expedient; provided that two months' notice be given to the licence-holder.

(2) A diagram approved by the Surveyor-General shall be required by the Resident Commissioner when transfer of the claim is sought; provided that transfer may in the discretion of the Resident Commissioner be registered without such diagram being approved and though a sketch plan only has been lodged upon production of a certificate of the beacon inspector concerned that all regulations relative to pegs and beacons have been complied with.

12. Every holder of a claim shall maintain his beacons in proper repair and in accordance with regulation and if the same be out of repair he shall put them in repair within a time to be specified by the Resident Commissioner in a written notice to such holder.

13. If the holder of a claim fail to comply with any provision of sections *ten, eleven and twelve* the claim shall lapse to the Crown.

14. (1) The holder of a prospecting permit shall be entitled by virtue of such permit to peg in the manner prescribed by regulation upon any portion of a Crown mineral area declared by any one notice issued under section *five* open to prospecting and mining claims of the nature referred to in the notice in number not exceeding fifty in the case of precious metal claims or one hundred in the case of base metal claims, or, where such person has already pegged claims upon such portion, such additional number of claims as will together with the claims already pegged by him not exceed the maximum numbers above stated. Section *eight* of this Proclamation shall apply *mutatis mutandis* to the pegging of such claims and such claims shall subject to the provisions of this section be deemed to be claims held under prospecting licence.

(2) The holder of a prospecting permit who has pegged claims under this section shall within twenty-one days of such pegging make application to the Resident Commissioner or other person authorized thereto for a licence for such claims and shall upon making such application pay licence moneys in accordance with section *seventeen* for such claims for one month reckoned from the date of pegging.

(3) Upon such application and payment being made the Resident Commissioner or other person authorized thereto by him shall issue to the applicant a prospecting licence for the claims pegged by the applicant unless the circumstances are found to be such as would if the claims were claims pegged under licence require the Resident Commissioner under sub-section (2) of section *sixteen* to refuse renewal of such licence. If the issue of the licence is refused the amount paid in respect of licence moneys shall be returned to the applicant.

(4) If the holder of a prospecting permit who has pegged claims under this section fails to comply with the provisions of sub-section (2) of this section the claims pegged by him shall lapse to the Crown, and he shall be guilty of an offence and shall be liable on conviction to a



fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding six weeks.

(5) No person who has pegged claims under this section which have lapsed under sub-section (4) of this section may again peg such claims except with the written consent of the Resident Commissioner or other person authorized thereto by him but any claims which have lapsed under sub-section (4) shall be subject to the provisions of section *five* and may at once be pegged off by any person entitled to peg claims so situated who has not previously pegged such claims under this section and the provisions of section *twenty-two* of this Proclamation shall not apply to claims so lapsing.

(6) Any claims pegged by any person under this section shall be in substitution for and not in addition to any claims which such person has obtained or might obtain the right to peg under a prospecting licence.

15. (1) If any person (herein after called the first pegger) shall have pegged on any piece of land a larger superficial area than he is authorized to peg by the terms of his licence any other person (herein after called the second pegger) who is duly licensed may peg off within the pegs of the first pegger claims adjoining one another but so that such claims shall be taken along the whole length of one of the sides of such piece of land; provided that

- (a) the second pegger shall not peg in places that have been worked or in such manner as to interfere with the first pegger;
- (b) the second pegger shall within two days after such pegging give written notice thereof to the Resident Commissioner and to the first pegger;
- (c) the second pegger shall within twenty-one days transmit to the Resident Commissioner a diagram of such piece of land showing the position of the claims pegged by him and so far as it may be defined by pegs or beacons the position of the area pegged by the first pegger.

(2) The Resident Commissioner may thereupon award to the second pegger the claims pegged by him in accordance with this section or if the piece of land shown to be in excess is insufficient to permit of claims of full size being marked off in manner aforesaid the Resident Commissioner may award to and allow the second pegger subject to the provisions of sub-section (1) (a) of this section to locate within the pegs of the first pegger such number of claims of full size as may be found to be in excess; provided that such excess claims shall adjoin one another on one of the sides of the said piece of land. An appeal shall lie within fourteen days from the decision of the Resident Commissioner to the High Commissioner whose decision shall be final. The Resident Commissioner shall upon expiry of the licences of the first and second pegger renew the same in accordance with the terms of any award or decision given under this sub-section.

(3) Any person being a second pegger who pegs ground within the claims of a first pegger knowing the same to be ground not open for pegging shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds and in default of payment to imprisonment for a period not exceeding five years.

(4) Any person who wilfully pegs an area more than 10 per cent. in excess of the number of claims which he is entitled to peg or any person who having pegged such excess shall not withdraw his pegs therefrom within five days after being required by the beacon inspector so to do shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding six weeks.

16. (1) A prospecting licence shall entitle the holder to prospect and mine for precious metals or base metals or both precious and base metals according to the terms of the licence on the claim or claims in respect of which it is held subject to the provisions of this Proclamation and



the regulations and he shall be entitled subject to such provisions from time to time for a period not exceeding three months to obtain a renewal of the licence on payment of licence moneys in accordance with section *seventeen*.

(2) The renewal of a prospecting licence shall be refused by the Resident Commissioner

(a) if on investigating a dispute as to pegging he finds that any claim held under such licence has been lawfully pegged by a person other than the applicant for renewal or is lawfully held;

(b) if he finds that any person professing to act under such licence has pegged at a time or place forbidden by law or on ground lawfully reserved from pegging or where pegging is not authorized by law.

(3) Save as is otherwise provided in this Proclamation the Resident Commissioner shall not refuse to renew a prospecting licence when a diagram of the claims held thereunder has been lodged except upon the order of a court of competent jurisdiction.

(4) Nothing in this or the last preceding section contained shall affect the right of any party to a dispute to obtain in a court of law any relief to which he may be entitled.

17. (1) Subject to the provisions of this section there shall be paid in advance to the Resident Commissioner in respect of every prospecting licence entitling the holder to prospect and mine for precious metals two shillings and sixpence per month per claim and in respect of every prospecting licence entitling the holder to prospect and mine for base metals only one penny per month per claim for the first year and sixpence per month per claim for any year after the first year.

(2) If at any time ground held under prospecting licence is not being adequately prospected the Resident Commissioner may demand upon renewal of the licence an increased rate of licence moneys at fifteen shillings per month for each precious metal claim and two shillings and sixpence per month for each base metal claim; provided that the applicant for renewal may if aggrieved by such demand appeal within a period of thirty days to the High Commissioner who may allow or dismiss the appeal and whose decision shall be final. For the purposes of this sub-section prospecting upon any one claim with intent to prove the nature and value of precious or base metals on another claim which is in direct relation or direct proximity to the first-mentioned claim shall be deemed to be prospecting on such other claim.

(3) As soon as use is being made of machinery wherever situate for the crushing or treatment of precious metal ore obtained from a precious metal claim or a precious metal claim has been sufficiently developed to permit of the extraction of such ore therefrom the licence holder shall before he is entitled to win precious metals from any such claim convert his prospecting licence therefor into a licence to be called a "digger's licence" in respect of which there shall be paid in advance the sum of twenty shillings per month for each precious metal claim.

(4) A digger's licence shall entitle the holder to dig for precious metals on any claim or claims in respect of which it is held subject to the provisions of this Proclamation and save as is in sub-sections (1) and (2) of this section otherwise provided all the provisions of this Proclamation relating to prospecting licences shall *mutatis mutandis* apply to digger's licences.

18. Notwithstanding anything in section *seventeen* contained

(1) when a licence-holder holds on his own behalf not more than fifteen claims and has been personally working the same the Resident Commissioner may in his discretion on renewing the licence remit the licence moneys pay-

able under section *seventeen* for a period not exceeding six months;

- (2) when a claim is situate in an unhealthy locality and the licence-holder has been working it in a manner which the Resident Commissioner deems sufficient the Resident Commissioner may grant exemption from payment of licence moneys for such period as having regard to all the circumstances he may think just. Every such exemption shall be subject to confirmation by the High Commissioner. The Resident Commissioner subject to review by the High Commissioner shall determine in each case whether a locality is healthy or unhealthy for the purposes of this section.

19. A prospecting or digger's licence may be transferred either wholly or in part in accordance with the provisions of any law or regulations for the time being in force governing registration of mining title and on payment of transfer duty in accordance with the Transfer Duty Proclamation 1902 of the Transvaal or any amendment thereof as in force in Swaziland. If a licence is transferred as to part only of a claim such part shall notwithstanding anything in section *nine* contained be deemed to be a claim.

20. (1) Any claim held under a prospecting or digger's licence may be abandoned provided the holder thereof give written notice to the Resident Commissioner of his intention to abandon.

(2) Upon his giving such notice he shall again be entitled to peg claims in accordance with the provisions of section *seven* or section *fourteen* on ground open to pegging.

21. The right to mine for precious or base metals on any claim so abandoned shall lapse to the Crown and the claim shall be subject to the provisions of section *five*.

22. When the licence moneys due on any claim are in arrear the claim shall lapse to the Crown but shall not be pegged off by any person during a period of three months. During such period the former licence-holder shall be entitled to recover such claim on payment of the arrear licence moneys together with a penalty equal to one per cent. of the amount of such licence moneys for each day during which the same have been in arrear. After the lapse of the said period of three months the claim shall be subject to the provisions of section *five*.

23. (1) No person shall prospect or mine in any town village township or area defined as a protected area under the Swaziland Concessions Partition Proclamation 1907 which is situate within a Crown mineral area or on any public square street road railway cemetery or stand which is so situate or on any other place reserved under this Proclamation or declared by the Resident Commissioner to be reserved from prospecting.

(2) No prospecting permit or licence shall authorize the holder to enter upon any land used as a garden orchard vineyard nursery or plantation or on land under cultivation or within one hundred yards of any spring well bore-hole reservoir dam artificial watercourse or waterworks or within two hundred yards of any house homestead or building unless he shall have obtained the written permission of the Resident Commissioner specially authorizing such entry.

24. Save as may be expressly provided in any special authority granted under sub-section (3) or (4) of section *five* or in any lease granted under any law repealed by this Proclamation the rights conferred by any mining title shall not include the right of disposal over the surface of the ground held under such title and the holder of any mining title shall not be entitled to use the surface of the ground held thereunder otherwise than for mining save as may be permitted by regulation.

25. (1) No person shall have any proprietary right in the water running in any river stream water-course or water-furrow by reason of any mining title.

(2) No person shall by reason of any mining title have any right to the use of such water save as may be expressly provided by the terms of such title or by regulation.

26. Whenever it shall be found necessary in the public interest or for public purposes to take away wholly or in part rights granted under this Proclamation or any amendment thereof or under any law repealed by this Proclamation the High Commissioner shall have the right to do so on payment of compensation to be determined in the absence of mutual agreement by arbitration.

27. Notwithstanding the repeal by this Proclamation of Law No. 14 of 1897 of the Transvaal as in force in Swaziland the provisions of sections *eight* and *nine* of that Law which are by section *nineteen* of the Swaziland Administration Proclamation 1904 made applicable *mutatis mutandis* for the purpose of ascertaining the amount and securing the payment of the royalty payable in respect of base metals as provided in the said section *nineteen* shall continue to be applicable for such purpose.

28. (1) The holder of any rights to base metals granted under this Proclamation or under any law repealed by this Proclamation shall pay to the Swaziland Administration a royalty in respect of base metals won from land held under such rights of such amounts not exceeding two and a half per cent, on the value of such base metals on severance from the soil as may in each case be fixed by the High Commissioner.

(2) The amount of the royalty payable under this section in respect of base metals won from land held under any such rights shall be fixed by the High Commissioner within two years from the commencement of such rights and shall be payable as from the date of such commencement.

(3) The provisions of sections *eight* and *nine* of Law No. 14 of 1897 of the Transvaal shall apply *mutatis mutandis* for the purpose of ascertaining the amount and securing the payment of the royalty payable under this section.

29. The High Commissioner may from time to time by notice in the *Gazette* make alter and rescind regulations for any or all of the following purposes:—

- (1) For prescribing the forms of prospecting permits prospecting and digger's licences and of a special authority under section *five* (3);
- (2) for prescribing the mode of pegging claims and in what manner the boundaries of claims shall be indicated by pegs or beacons and the nature of such pegs or beacons;
- (3) for prescribing the conditions under which base metal claims may be converted into precious metal claims and *vice versa* and the conditions under which prospecting and mining for precious metals may be permitted on base metal claims and the conditions under which prospecting and mining for base metals may be permitted on precious metal claims and the conditions under which persons may be compelled to take out precious metal licences for claims held as base metal claims;
- (4) for controlling the use of the surface of ground held under mining title;
- (5) for controlling and regulating the use of water on any Crown mineral area and for the issue cancellation or withdrawal of water-right grants;
- (6) for prescribing the payment of fees and charges in connection with any matter which may be dealt with by regulation;
- (7) for providing for the registration of claims or licences and for transfers or mortgages thereof;
- (8) generally for the better carrying out of the purposes of this Proclamation or any amendment thereof.

Such regulations may prescribe as penalties for con-

travention thereof fines not exceeding fifty pounds or imprisonment for periods not exceeding three months for each contravention.

30. Any person who without lawful authority prospects or mines for precious or base metals on any Crown mineral area shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding six weeks and to a further fine of five pounds and in default of payment to imprisonment for a period not exceeding seven days for every day upon which prospecting or mining has been carried on.

31. Any person who prospects or mines for any precious or base metals the rights to which are vested in the High Commissioner or other authority representing the Crown on any portion of a Crown mineral area on which prospecting or mining for such metals is not authorized or is expressly forbidden by this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months and to a further fine of ten pounds and in default of payment to imprisonment for a period not exceeding fourteen days for every day upon which such prospecting or mining has been carried on.

32. (1) Any person prospecting or mining on a Crown mineral area shall on the request of the Resident Commissioner or of any Assistant Commissioner or of any other person duly authorized by the Resident Commissioner to make such request produce the permit licence certificate or other document under the authority of which such prospecting or mining is being carried on.

(2) Any person failing to comply with the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds and in default of payment to imprisonment for a period not exceeding seven days.

33. Any person who

- (a) wilfully alters moves or damages any beacon or peg erected under this Proclamation or the regulations;
- (b) knowingly pegs any claim on ground held under mining title by another without his permission in writing;
- (c) occupies or resides upon a Crown mineral area open for prospecting and mining or held under a mining title without any licence or other right to occupy such area and fails to remove therefrom when ordered by or under the authority of the Resident Commissioner

shall be liable to a fine not exceeding one hundred pounds and in default of payment thereof to imprisonment for a period not exceeding one year.

34. Any person who

- (a) unlawfully removes ore from ground held under any mining title;
- (b) or wilfully damages or attempts to damage any mine machinery water-course or other mining property situate on a Crown mineral area

shall be liable to a fine not exceeding five hundred pounds or to imprisonment with or without the option of a fine for a period not exceeding five years.

35. Nothing in this Proclamation contained and no mining title issued hereunder shall destroy diminish or affect any rights held in respect of Crown mineral areas which have priority over the rights in respect of such areas vested in the High Commissioner or other authority representing the Crown.



36. This Proclamation may be cited for all purposes as "The Crown Mineral Areas (Swaziland) Proclamation 1912" and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at *Cape Town*  
this *first* day of *April* One thousand  
Nine hundred and Twelve.

*[Signature]*  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

*[Signature]*  
Imperial Secretary.

#### SCHEDULE.

<i>Laws Repealed.</i>	<i>Extent of Repeal.</i>
First Volksraad Resolution, Article No. 1261. 25th August, 1896.	
Law No. 14 of 1897 (Base Metal Law).	The whole, together with the amendment of Article <i>four</i> thereof, approved by the Second Volksraad Article No. 1749, of the 22nd November, 1898, and noted and accepted by the First Volksraad Article No. 1975, of the 8th December, 1898.
Law No. 15 of 1898 (Gold Law).	The whole.
First Volksraad Resolution, Article No. 1911. 2nd December, 1898.	
First Volksraad Resolution, Article No. 1425. 29th September, 1899.	
Ordinance No. 21 of 1902.	The whole.
Base Metal Amendment Ordinance, 1903 (Ordinance No. 42 of 1903).	The whole.
Proclamation No. 8 of 1909, dated the 18th February, 1909.	The whole.

(Printed by the Government Printer, Pretoria.)





No. 26 of 1912.]

# PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is expedient to make provision with regard to dealing in unwrought precious metals in Swaziland;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:

## 1. In this Proclamation

- "banker" shall include any manager, cashier, or other officer of a joint-stock bank acting in such capacity;
- "imprisonment" shall mean imprisonment either with or without hard labour.
- "licence" shall mean a licence described in sections *three* and *four*;
- "licensed dealer" shall mean the holder of a licence as in this section defined;
- "precious metals" shall mean gold and silver and their ores and gold or silver found in combination with a base metal where such gold or silver cannot be worked apart from such base metal and the value of the gold or silver exceeds the cost of producing both such precious and base metal;
- "unwrought precious metal" shall include precious metal in any form whatever, which though smelted, is not manufactured or made up into any article of commerce, and shall include amalgam, slimes, slags, black sands, pots, battery chips, sweeping of reduction works and scrapings and by-products of unrefined precious metal.

2. (1) No person shall buy, sell, deal in, receive or dispose of by way of barter, pledge, or otherwise, either as principal or agent, any unwrought precious metal, unless

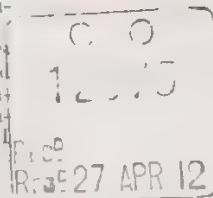
- (a) he is the holder of a licence;
- (b) he is a banker in Swaziland;
- (c) such unwrought precious metal has been won by him or his servant acting on his behalf from ground held by him under mining title, or on which he is lawfully entitled to prospect;
- (d) such unwrought precious metal does not exceed twenty pennyweights in quantity, and not being a person described in paragraph (a) (b) or (c), he has obtained a certificate from the Resident Commissioner authorizing him to be in possession or dispose of such quantity of unwrought precious metal.

(2) Any person acting in contravention of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds, or to imprisonment without the option of a fine for a period not exceeding two years, or to both such fine and imprisonment, and, in case of a second or subsequent conviction, to a fine not exceeding one thousand pounds or to imprisonment without the option of a fine for a period not exceeding five years or to both such fine and imprisonment.

(3) Any person who shall buy unwrought precious metal without having satisfied himself that the vendor thereof is lawfully entitled to sell the same shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (2) of this section.

3. (1) Any person who shall have in his possession any unwrought precious metal, unless

- (a) he is a person excepted under sub-section (1) of the last preceding section; or
- (b) he is in possession of such metal in fulfilment of a contract of service with any such excepted person; or



(c) he is able to satisfy the court that he came into possession of such metal in a lawful manner;

shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section.

(2) The High Commissioner may from time to time, by notice in the *Gazette*, make alter or rescind regulations for the licensing of persons authorized to buy or to sell or to deal in or otherwise to receive and dispose of unwrought precious metals and for the better prevention of thefts or unlawful possession of unwrought precious metal and may by such regulations prescribe different classes of licences for the various methods of dealing in different kinds of unwrought precious metals and may further prescribe penalties for the breach of any such regulations not exceeding the penalties mentioned in the last preceding section.

4. (1) The Assistant Commissioner of any district may issue to any white person a licence for such district. Such Assistant Commissioner shall not issue such licence except after inquiry from the Resident Commissioner and the officer in charge of the police.

(2) Every licence shall be in the form prescribed by regulation, and shall be issued for one year or a quarter of a year.

(3) There shall be paid to an Assistant Commissioner in respect of every licence the sum of twenty-five pounds if it be issued for a year, or eight pounds if it be issued for a quarter of a year.

(4) Every licence, if yearly, shall, whenever issued, expire on the thirty-first day of December of the year in which it was issued, and every quarterly licence shall expire on the last day of each quarter ending the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December.

(5) Any licence issued in Swaziland under article *one hundred and forty-one* of Law No. 15 of 1898 and in force at the commencement of this Proclamation, shall, until it has expired in accordance with the said law, be deemed to be a licence issued under this section.

5. Any licensed dealer, who shall deal in unwrought precious metal in a manner which is not specially authorized by the terms of his licence, shall be guilty of an offence, and liable on conviction to the penalties mentioned in section *two*, and, in addition, to forfeit his licence and any right of renewal thereof for such time as the Court, which passes sentence, may direct.

6. Any person who shall buy, sell, deal in, or receive by way of barter, pledge, or otherwise, either as principal or agent, any unwrought precious metal between sunset and sunrise, or on a Sunday or a day declared by law a public holiday, or at any other place than his usual place of business, shall be guilty of an offence and liable on conviction to the penalties mentioned in section *two*, and, in addition, in the case of a licensed dealer, to forfeit his licence and any right of renewal of the same for such time as the Court which passes sentence may direct.

7. Whenever in any proceedings against any person under this Proclamation, it is necessary to ascertain whether he is a licensed dealer or is otherwise authorized to buy, sell, deal in, receive, or dispose of unwrought precious metal, the burden of proving that he was such licensed dealer or was otherwise authorized as aforesaid, shall lie upon such person.

8. (1) Every licensed dealer, and every banker and every person who receives or deposits for safe-keeping or dispatch unwrought precious metal, shall keep a true and correct register in the form prescribed by regulation, of all unwrought precious metal deposited with, or received, or dispatched, or otherwise disposed of by him, and shall enter or cause to be entered in such register within twenty-four hours after every such transaction

(a) the date of the transaction:

(b) the names of the parties to the transaction:

(c) the nature and weight of the material and the

weight of the precious metal, the subject of the transaction;

(d) the price (if any) received or paid.

(2) The High Commissioner may from time to time by notice in the *Gazette* make alter and rescind regulations prescribing the form of the registers required to be kept under this section.

(3) Any person required by this section to keep a register, who shall fail to keep the same in manner prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or to imprisonment, without the option of a fine, for a period not exceeding three months.

(4) Every person required by this section to keep a register shall, on or before the fifteenth day of each month, transmit or deliver to the Resident Commissioner a true copy of such register in duplicate for the last preceding month, together with a solemn declaration of the correctness thereof and shall also produce and exhibit such register to the senior officer of police having authority in the district whenever required in writing by such officer, and in default of compliance with any requirement of this sub-section he shall be guilty of an offence, and liable on conviction to the penalties mentioned in sub-section (3) of this section.

9. Any person who shall deliver or cause to be delivered unwrought precious metal in payment of any debt due from him or another person, or in consideration of any service rendered or to be rendered to him or to another person, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment, without the option of a fine, for a period not exceeding three months or to both such fine and imprisonment.

10. Any person who shall receive from a coloured person any unwrought precious metal by way of purchase, barter, pledge, or gift, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand pounds, or to imprisonment, without the option of a fine, for a period not exceeding five years or to both such fine and imprisonment.

11. Any coloured person who shall sell, barter, pledge, or otherwise dispose of any unwrought precious metal, or who shall obtain by purchase, barter or pledge, or shall be in possession of any unwrought precious metal, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years: provided that nothing in this section contained shall apply to a coloured person handling unwrought precious metal in fulfilment of any contract of service with a person excepted under sub-section (1) of section *two*.

12. On the conviction of any person for an offence mentioned in this Proclamation it shall be in the discretion of the Court which passes sentence to order any unwrought precious metal in respect of which such conviction has been obtained, to be delivered up to the owner thereof (if it shall be satisfied of the ownership) or if not so satisfied to be forfeited to the Crown.

13. Any person who shall maliciously place any unwrought precious metal in the possession of or on the premises of any other person, with intent that such other person shall be convicted under any provision of this Proclamation, shall be guilty of an offence and shall be liable on conviction to the penalties mentioned in section *two*.

14. Any person who shall be an accessory either before or after the fact, to an offence described in this Proclamation shall be liable to be charged and dealt with in all respects as if he were a principal offender, and any person who shall attempt to commit any such offence shall be deemed to have actually committed the same, and shall be liable to the penalties herein provided for the particular offence which he has attempted to commit.

15. No person who has been convicted of an offence

described in this Proclamation shall be entitled to obtain from an Assistant Commissioner a licence to trade or carry on any business in Swaziland; and any such licence shall *ipso facto* lapse on conviction of the holder for any such offence.

16. This Proclamation may be cited for all purposes as The Dealing in Unwrought Precious Metals (Swaziland) Proclamation 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at *Cape Town* this  
*first* day of *April* One thousand Nine  
 hundred and Twelve.

*W. M. Stone*

High Commissioner.

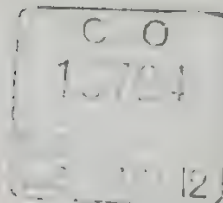
By Command of His Excellency the  
 High Commissioner.

*C. H. M. du Toit*

Imperial Secretary.

(Printed by the Government Printer, Pretoria.)





P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to make provision out of the public revenue or other funds of the Bechuanaland Protectorate for the service of the year ending the thirty-first day of March 1913.

NOW therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. The public revenue or other funds of the Bechuanaland Protectorate are hereby charged towards the service of the year ending the thirty-first day of March 1913 with a sum of 265,172 (Sixty five thousand one hundred and seventy-two pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the Estimates of the Expenditure of the Protectorate for the year ending the thirty-first day of March 1913 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which



the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Bechuanaland Protectorate Appropriation Proclamation 1912 and shall have force and take effect from the first day of April 1912.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *18th* day of *April* One thousand  
Nine hundred and Twelve.



*[Signature]*  
High Commissioner.

By *[Signature]* of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

S C H E D U L E

No.	Head of Service	Amount
1	Pensions	£1,076
2	Resident Commissioner	4,472
3	Legal	2,460
4	District Administration	4,386
5	Posts	2,770
6	Customs	50
7	Police	35,228
8	Miscellaneous	6,430
9	Public Works Recurrent	2,000
10	Public Works Extraordinary	2,000
11	Medical	1,000
12	Education	1,200
13	Veterinary	1,860
14	Destruction of Pests	250
		<hr/>
		£ 65,172
		<hr/>

PROCLAMATION

10451  
REC'D

BY HIS EXCELLENCY THE HIGH COMMISSIONER

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SAAC

No. 28 of 1912.

WHEREAS it is expedient to amend Section three of the Swaziland Administration Proclamation 1907 with respect to the exercise of the powers and duties of Registrar of Deeds and of Surveyor-General for Swaziland;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. Notwithstanding anything contained in Section three of the Swaziland Administration Proclamation 1907 the officers for the time being acting as Registrar of Deeds of the Transvaal and as Surveyor-General of the Transvaal shall exercise and discharge respectively the powers and duties of Registrar of Deeds for Swaziland and of Surveyor-General for Swaziland in accordance with the laws and regulations for the time being in force in Swaziland.

2. This Proclamation shall have force and take effect from the first day of April 1912.

GOD

GOD SAVE THE KING

Given under my Hand and Seal at *Cape Town*  
this *fourth* day of *April* One thousand  
Nine hundred and Twelve.



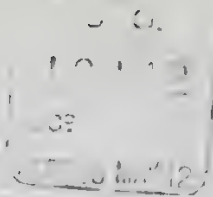
*Handwritten signature*

High Commissioner

EXCELLENCY THE HIGH COMMISSIONER.

*Handwritten signature*

Imperial Secretary.



P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
-----

WHEREAS it is desirable to make provision out of the public revenue or other funds of Swaziland for the service of the year ending the thirty-first day of March 1913.

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-

1. The public revenue or other funds of Swaziland are hereby charged towards the service of the year ending the thirty-first day of March 1913 with a sum of £54,033 (Fifty-four thousand and thirty-three pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule hereto annexed and more particularly specified in the Estimates of the expenditure of Swaziland for the year ending the thirty-first day of March 1913 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which



the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Swaziland Appropriation Proclamation 1912 and shall have force and take effect from the first day of April 1912.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Cape Town*  
this *twenty-sixth* day of *April* One thousand  
Nine hundred and Twelve.



*[Signature]*

High Commissioner.

Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

S C H E D U L E

Ordinary Expenditure

No.	Head of Service	Amount.
1	Establishments	£10,850
2	Police	13,684
3	Transport	770
4	Posts and Telegraphs	2,144
5	Administration of Justice	2,262
6	Public Works	3,350
7	Medical	2,148
8	Education	2,299
9	Veterinary	861
10	Allowances to Native Chiefs	1,050
11	Pensions	921
12	Interest	3,600
13	Refunds of Revenue	150
14	Miscellaneous	1,150
15	Sinking Fund	2,054
		<hr/>
		47,293

Extraordinary Expenditure

16	Public Works Extraordinary	1,600
17	Concessions and Partition Expenses	3,275
18	Eradication of East Coast Fever	1,865
		<hr/>
		54,033
		<hr/>

put by 2-2017

: Also repealed by 33 of 1912

No. 30 of 1912.]

**PROCLAMATION**

By His Excellency the High Commissioner.

WHEREAS by section *twenty-five* sub-section (1) of the Copyright Act 1911 of Great Britain and Ireland known as "The Copyright Act 1911" it is provided that the said Act except such of the provisions thereof as are expressly restricted to the United Kingdom shall extend throughout His Majesty's Dominions;

And whereas it is further provided by section *thirty-seven* sub-section (2) (d) of the said Act that the said Act shall come into operation in any British possession to which the same extends other than the possessions specially mentioned in the said section or the provisions thereof within the possession by the Governor;

And whereas it is desirable to bring the said Act into operation in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:

The said Act shall come into operation in Basutoland on the 1st day of July, 1912.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Thirteenth day of June One thousand Nine hundred and Twelve

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 31 of 1912.]

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make further provision out of the public revenue of Basutoland to meet certain additional expenditure incurred during the financial year which ended the Thirtieth day of June 1911;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue of Basutoland is hereby charged with the sum of £1,450 to meet the expenditure incurred during the financial year which ended the Thirtieth day of June 1911 in excess of the amounts appropriated for the service of that year according to the particulars set forth in the Schedule to this Proclamation.

2. This Proclamation may be cited as the Basutoland Public Revenue (Proclamation) 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty-sixth day of June One thousand Nine hundred and Twelve.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary.

#### SCHEDULE.

No.	Head of Service.	Amount Provided.	Amount Expended.	Excess.
6	Office Contingencies	£1,100	£1,153 17 5	£53 17 5
13	Audit	350	355 2 3	5 2 3
	Totals	£1,450	£1,508 19 8	£58 19 8

(Printed by the Government Printer, Pretoria).

12. 11. 1912.

PROCLAMATION

By His Excellency the High Commissioner.

WHEREAS it is desirable to confer and impose upon the Resident Commissioner of Swaziland the powers and duties of the Special Commissioner appointed under Section three of the Swaziland Concessions Partition Proclamation 1907:

NOW KNOW YE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare and proclaim and make known as follows :-

1. The first portion of Section three of the Swaziland Concessions Partition Proclamation 1907 concluding with the words "this Proclamation" shall be and is hereby repeated.

2. All and singular the powers authorities jurisdiction and duties conferred and imposed upon the Special Commissioner appointed under the Swaziland Concessions Partition Proclamation 1907 whether by the said Proclamation or any other law in force in Swaziland shall be and are

- hereby -



hereby conferred and imposed upon the Resident Commissioner  
of Swaziland.

3. This Proclamation shall have force and take effect  
from the date of its publication in the Gazette.

GOD SAVE THE KING.

Given under my Hand and Seal at *Lake Lron* this  
*20<sup>th</sup>* day of *June* one thousand Nine  
hundred and Twelve.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.

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27458.12.

No. 33 of 1912.]

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by section *twenty-five* sub-section (1) of an Act passed by the Parliament of the United Kingdom of Great Britain and Ireland known as "The Copyright Act 1911" (the terms of which are set forth below under the heading "Annexure A") it is provided that the said Act except such of the provisions thereof as are expressly restricted to the United Kingdom shall extend throughout His Majesty's Dominions;

And whereas it is further provided by section *thirty-seven* sub-section (2) (d) of the said Act that the said Act shall come into operation in any British possession to which the same extends other than the possessions specially described in the said section on the proclamation thereof within the possession by the Governor;

And whereas it is desirable to bring the said Act into operation in Basutoland;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows;—

1. The said Act is hereby declared to be in operation in Basutoland and shall be deemed to have come into operation therein on the first day of July 1912.

2. Proclamation No. 30 of 1912 shall be and is hereby repealed.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Sixteenth day of July One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by section twenty-eight of an Act passed by the Parliament of the United Kingdom of Great Britain and Ireland known as "The Copyright Act 1911" (the terms of which are set forth below under the heading "Annexure A") it is provided that His Majesty may by Order in Council extend the said Act to any territories under his protection and that on the making of any such Order the said Act shall subject to the provisions of such Order have effect as if the territories to which it applies were part of His Majesty's Dominions to which the said Act extends:

AND WHEREAS by Order in Council dated the 24th day of June 1912 His Majesty has been pleased to extend the said Act to Southern Rhodesia:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

The said Act is hereby declared to be in operation in Southern Rhodesia and shall be deemed to have come into operation therein on the first day of July 1912.

GOD SAVE THE KING

GIVEN under my Hand and Seal at

this 16th day of July  
one thousand nine hundred and  
twelve.

High Commissioner.

Command of His Excellency  
the High Commissioner.

Imperial Secretary.

## CHAPTER 46.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO  
COPYRIGHT.

16th December, 1911.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## IMPERIAL COPYRIGHT.

*Rights.*

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term herein after mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's Dominions as aforesaid; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders-in-Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right

- (a) to produce, reproduce, perform, or publish any translation of the work;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;
- (d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorize any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary.
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work.
- (iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art;

(iv) The publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged.

(v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries.

(vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who

(a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or

(b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(c) by way of trade exhibits in public; or

(d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.



For which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and the mode, time, and frequency of the payment of royalties.

4. If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that—

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and
  - (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.
- (2) The owner of the copyright in any work may assign the right either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

#### Civil Remedies.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work;
- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may bring proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for supposing that copyright subsisted in the work.

9. (1) Where the construction of a building or structure which infringes or which, if completed, would infringe the copyright in some other work has commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case in which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

#### Summary Remedies.

11. (1) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the United Kingdom any infringing copy of any such work

guilty of an offence under this Act and be  
summary conviction to a fine not exceeding forty  
every copy dealt with in contravention of  
not exceeding fifty pounds in respect of  
action; or, in the case of a second or sub-  
sequent offence, either to such fine or to imprisonment  
with hard labour for a term not exceeding two

any person knowingly makes or has in his pos-  
session for the purpose of making infringing  
work in which copyright subsists, or know-  
ing that his private profit causes any such work to  
be made in public without the consent of the owner  
of the right, he shall be guilty of an offence under  
this Act, and shall be liable on summary conviction to a fine  
not exceeding fifty pounds, or, in the case of a second or  
subsequent offence, either to such fine or to imprisonment  
with hard labour for a term not exceeding two

court before which any such proceedings are  
taken, whether the alleged offender is convicted or  
not, all copies of the work or all plates in the  
possession of the alleged offender, which appear to it to be  
copies or plates for the purpose of making  
copies, be destroyed or delivered up to the  
court, and the copyright or otherwise dealt with as the  
court thinks fit.

Nothing in this section shall, as respects musical  
works, affect the provisions of the Musical (Summary Pro-  
ceedings) Act, 1902, or the Musical Copyright

any person aggrieved by a summary conviction  
under the foregoing provisions of this Act  
in England and Ireland appeal to a court of quarter  
sessions in Scotland under and in terms of the Sum-  
mary Jurisdiction (Scotland) Acts.  
The provisions of this Act with respect to sum-  
mary proceedings shall extend only to the United Kingdom.

#### *Importation of Copies.*

(1) Copies made out of the United Kingdom of  
works in which copyright subsists which if made  
in the United Kingdom would infringe copyright, and  
which the owner of the copyright gives notice in  
writing to himself or his agent to the Commissioners of  
Customs and Excise, that he is desirous that such copies  
should be imported into the United Kingdom, shall  
be imported, and shall, subject to the provisions  
of this section, be deemed to be included in the table of  
goods and restrictions contained in section forty-  
three of the Customs Consolidation Act, 1876, and that  
the provisions of that Act shall apply accordingly.

Before detaining any such copies or taking any  
proceedings with a view to the forfeiture thereof  
under the law relating to the Customs, the Commissioners  
of Customs and Excise may require the regulations under  
this Act, whether as to information, conditions, or  
otherwise, to be complied with, and may satisfy  
himself in accordance with those regulations that there  
are no such as are prohibited by this section to be

The Commissioners of Customs and Excise may  
make regulations, either general or special, respect-  
ing the importation and forfeiture of copies the importation of  
which is prohibited by this section, and the conditions,  
to be fulfilled before such detention and forfeiture,  
and, by such regulations, determine the information,  
and security to be given, and the evidence requisite  
for the purposes of this section, and the mode of  
production of such evidence.

The regulations may apply to copies of all works  
the importation of copies of which is prohibited by this  
section, or different regulations may be made respecting  
different classes of such works.

The regulations may provide for the informant  
giving the Commissioners of Customs and Excise all  
the information and damages incurred in respect of any deten-  
tion on his information, and of any proceedings  
taken on such detention; and may provide for notices  
of such detention to be given, and the evidence requisite  
for the purposes of this section, and the mode of  
production of such evidence.

(2) The foregoing provisions of this section shall  
have effect as if they were part of the Customs Consolida-  
tion Act, 1876: Provided that, notwithstanding any-  
thing in that Act, the Isle of Man shall not be treated  
as part of the United Kingdom for the purposes of this

(3) This section shall, with the necessary modifica-  
tions, apply to the importation into a British possession  
of copies of works made out of a British possession.

#### *Delivery of Books to Libraries.*

15. (1) The publisher of every book published in the  
United Kingdom shall, within one month after the pub-  
lication, deliver, at his own expense, a copy of the book  
to the trustees of the British Museum, who shall give a  
written receipt for it.

(2) He shall also, if written demand is made before  
the expiration of twelve months after publication, deliver  
within one month after receipt of that written demand or,  
if the demand was made before publication, within one  
month after publication, to some depot in London named  
in the demand a copy of the book for, or in accordance  
with the directions of, the authority having the control  
of each of the following libraries, namely: the  
Bodleian Library, Oxford, the University Library,  
Cambridge, the Library of the Faculty of Advocates at  
Edinburgh, and the Library of Trinity College, Dublin,  
and subject to the provisions of this section the National  
Library of Wales. In the case of an encyclopaedia,  
newspaper, review, magazine, or work published in a  
series of numbers or parts, the written demand may  
include all numbers or parts of the work which may be  
subsequently published.

(3) The copy delivered to the trustees of the British  
Museum shall be a copy of the whole book with all maps  
and illustrations belonging thereto, finished and coloured  
in the same manner as the best copies of the book are  
published, and shall be bound, sewed, or stitched together  
and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities  
mentioned in this section shall be on the paper on which  
the largest number of copies of the book is printed for  
sale, and shall be in the like condition as the books pre-  
pared for sale.

(5) The books of which copies are to be delivered to  
the National Library of Wales shall not include books  
of such classes as may be specified in regulations to be  
made by the Board of Trade.

(6) If a publisher fails to comply with this section,  
he shall be liable on summary conviction to a fine not  
exceeding five pounds and the value of the book, and the  
fine shall be paid to the trustees or authority to whom the  
book ought to have been delivered.

(7) For the purposes of this section, the expression  
"book" includes every part or division of a book, pamph-  
let, sheet of letter-press, sheet of music, map, plan, chart  
or table separately published, but shall not include any  
second or subsequent edition of a book unless such edition  
contains additions or alterations either in the letter-press or  
in the maps, prints, or other engravings belonging thereto.

#### *Special Provisions as to Certain Works.*

16. (1) In the case of a work of joint authorship,  
copyright shall subsist during the life of the author who  
first dies and for a term of fifty years after his death, or  
during the life of the author who dies last, whichever  
period is the longer, and references in this Act to the period  
after the expiration of any specified number of years  
from the death of the author shall be construed as refer-  
ences to the period after the expiration of the like number  
of years from the death of the author who dies first or  
after the death of the author who dies last, whichever  
period may be the shorter, and in the provisions of this  
Act with respect to the grant of compulsory licences a  
reference to the date of the death of the author who dies  
last shall be substituted for the reference to the date of  
the death of the author.

(2) Where, in the case of a work of joint authorship,  
some one or more of the joint authors do not satisfy the  
conditions conferring copyright laid down by this Act,  
the work shall be treated for the purposes of this Act as if  
the other author or authors had been the sole author or  
authors thereof:

Provided that the term of the copyright shall be the  
same as it would have been if all the authors had satisfied  
such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint  
authorship" means a work produced by the collaboration  
of two or more authors in which the contribution of one  
author is not distinct from the contribution of the other  
author or authors.

(4) Where a married woman and her husband are  
joint authors of a work the interest of such married  
woman therein shall be her separate property.

17. (1) In the case of a literary dramatic or musical  
work, or an engraving, in which copyright subsists at the  
date of the death of the author or, in the case of a work  
of joint authorship, at or immediately before the date of  
the death of the author who dies last, but which has not  
been published, nor, in the case of a dramatic or musical  
work, been performed in public, nor in the case of a



lecture, been delivered in public before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate herein after mentioned:

Provided that

- (i) Nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and
  - (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
  - (b) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no

longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions:—

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply.
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten.
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives.
- (d) The saving contained in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorizing any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section.
- (e) Where the work is a work on which copyright is conferred by an Order-in-Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act

in force at the date of the making of the original in which the contrivance was directly or indirectly

vided that

- i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright; and
- ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a nature delivered at a public meeting to publish thereof in a newspaper.

The term for which copyright shall subsist in a negative from which the photograph was directly derived, and the person who was owner of the negative at the time when such negative was made shall be deemed to be the author of the work, where such owner is a body corporate, the body shall be deemed for the purposes of this Act to be a person within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(3) This Act shall not apply to designs capable of being used under the Patents and Designs Act, 1907, as works of art, though capable of being used as designs, or to be multiplied by any industrial process. The general rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be used for such purposes as aforesaid.

It appears to His Majesty that a foreign author, who has not undertaken to give, or has not undertaken to give, protection to the works of British authors, it will for His Majesty by Order-in-Council to make such of the provisions of this Act as confer on works first published within the parts of His Majesty's dominions to which this Act extends, shall to works published after the date specified in the Order-in-Council as subjects or citizens of a foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

Where any person is immediately before the commencement of this Act entitled to any such right in a work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, from that date, he shall be entitled to the substituted right in the second column of that schedule, or to any interest in such a substituted right, and to no other right, and such substituted right shall be deemed to be the right which it would have subsisted in if this Act had been in force at the date when the work was made, and the work had been one entitled to copyright.

That the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein to any person, then, on the passing of this Act, the right or interest shall, in the absence of express agreement, pass to the author of the work, and any interest therein subsisting shall determine; but the person who immediately before the date at which the right would have expired was the owner of the right or interest shall be entitled to his option either

on giving such notice as herein after mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within

three years after the date at which the right would have so expired, of royalties to the author as, failing agreement, may be determined by arbitration; or, where the work is incorporated in a collective work and the owner of the copyright or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the *London Gazette* and in two London newspapers;

- (b) where any person has, before the twenty-fifth day of July nineteen hundred and ten, taken any action whereby he has incurred expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen subsections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

#### Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the *London Gazette* that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished)



authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion. His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts thereof as may be specified in the Order, shall not be subject to any conditions contained therein, shall, in the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor-in-Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorized to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

## PART II.

### INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order-in-Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

- (i) before making an Order-in-Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act;
- (ii) the Order-in-Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order;

(iv) the Order-in-Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order;

(v) in applying the provision of this Act as to ownership of copyright, the Order-in-Council may make such modifications as appear necessary having regard to the law of the foreign country;

(vi) in applying the provisions of this Act as to existing works, the Order-in-Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

(2) An Order-in-Council under this section may extend to all the several countries named or described therein.

30. (1) An Order-in-Council under this part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor-in-Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like orders as under this part of this Act His Majesty-in-Council is authorized to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this part of this Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any order any part of his dominions not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order-in-Council to declare that such order and this part of this Act shall not, and the same shall not apply to such part except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

## PART III.

### SUPPLEMENTARY PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order-in-Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order-in-Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books:

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires—

"literary work" includes maps, charts, plans, tables, and compilations;



"dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"work of sculpture" includes casts and models; "architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction;

"engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

"photograph" includes photo-lithograph and any work produced by any process analogous to photography;

"cinematograph" includes any work produced by any process analogous to cinematography;

"collective work" means—

(a) an encyclopædia, dictionary, year-book, or similar work;

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"fringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;

"performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;

"plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

"lecture" includes address, speech, and sermon;

"self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

For the purposes of this Act (other than those infringements of copyright), a work shall not be published or performed in public, and shall not be deemed to be delivered in public, if performed in public, or delivered in public, without the consent or acquiescence of the author, his administrators or assigns.

For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in two or more places, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only intended to satisfy the reasonable requirements of the law, and a work shall be deemed to be published in two places if the time between the publication in one such place and the publication in the other does not exceed fourteen days, or such longer period as the time being, be fixed by Order-in-Council.

Where, in the case of an unpublished work, the work has extended over a considerable period, and this Act conferring copyright shall be deemed to have been complied with, if the author was, at the end of that period, a British subject resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) in the United Kingdom, on the First day of July Nineteen hundred and Twelve or on such earlier date as may be fixed by Order-in-Council;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

## SCHEDULES.

### FIRST SCHEDULE.

#### Existing Rights.

Existing Right.	Substituted Right.
(a) In the case of works other than dramatic and musical works.	
Copyright.	Copyright as defined by this Act.*
(b) In the case of musical and dramatic works.	
Both copyright and performing right	Copyright as defined by this Act.*
Copyright, but not performing right	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings:—

"Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

"performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

\* In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have been entitled under section eighteen of the Copyright Act, 1842.

### SECOND SCHEDULE.

#### Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
5 Geo. 4. c. 11	The Engraving Copyright Act, 1734	The whole Act.
17 Geo. 4. c. 11	The Engraving Copyright Act, 1767	The whole Act.
1 Geo. 4. c. 11	The Copyright Act, 1775	The whole Act.
1 Geo. 4. c. 2	The Prints Copyright Act, 1777	The whole Act.
54 Geo. 3. c. 56	The Sculpture Copyright Act, 1814	The whole Act.
3 and 4 Will. 4. c. 15	The Dramatic Copyright Act, 1833	The whole Act.
5 and 6 Will. 4. c. 85	The Lectures Copyright Act, 1835	The whole Act.
6 and 7 Will. 4. c. 59	The Prints and Engravings Copyright (Ireland) Act, 1836	The whole Act.
6 and 7 Will. 4. c. 110	The Copyright Act, 1836	The whole Act.

		The whole A
	The International Copyright Act,	The whole A
16	The International Copyright Act,	The whole A
17	The Fine Arts Copyright Act, 1862	Sections one to six A
		of copyright engra-
		der, and the
		act as amended
	The International Copyright Act,	The w
39 and 40	The Customs Consolidation Act,	Section forty-two, from
46	The Copyright (Musical Composi-	The whole Act
10	tions) Act, 1882	
47 and 48	The International Copyright Act,	The whole A
	The Copyright (Musical Composi-	The whole A
	tions) Act, 1882	
	The Revenue Act, 1889	Section one, from
		Books first p

635 1912

Copy

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by section twenty-eight of an Act passed by the Parliament of the United Kingdom of Great Britain and Ireland known as "The Copyright Act 1911" (the terms of which are set forth below under the heading "Annexure A") it is provided that His Majesty may by Order in Council extend the said Act to any territories under his protection and that on the making of any such Order the said Act shall subject to the provisions of such Order have effect as if the territories to which it applies were part of His Majesty's Dominions to which the said Act extends:

AND WHEREAS by Order in Council dated the 24th day of June 1912 His Majesty has been pleased to extend the said Act to the Bechuanaland Protectorate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

The said Act is hereby declared to be in operation in the Bechuanaland Protectorate and shall be deemed to have come into operation therein on the first day of July 1912.

GOD SAVE THE KING

GIVEN under my Hand and Seal at

*Cape Town*  
this *16th* day of *July*  
one thousand nine hundred and twelve

*[Signature]*  
High Commissioner.

Command of His Excellency

the High Commissioner

*[Signature]*  
Imperial Secretary.

## CHAPTER 46.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO  
COPYRIGHT.

16th December, 1911.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## IMPERIAL COPYRIGHT.

*Rights.*

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term herein after mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's Dominions as aforesaid; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders-in-Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right

- (a) to produce, reproduce, perform, or publish any translation of the work;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;
- (d) in the case of a literary, dramatic, or musical work to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorize any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary.
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work.
- (iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art;



- (iv) The publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged.
  - (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer: but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries.
  - (vi) The reading or recitation in public by one person of any reasonable extract from any published work.
- (2) Copyright in a work shall also be deemed to be infringed by any person who
- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or
  - (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
  - (c) by way of trade exhibits in public; or
  - (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends, any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.
- (3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.



3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that—

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and
  - (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.
- (2) The owner of the copyright in any work may assign the right either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

#### *Civil Remedies.*

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work;
- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of any proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

#### *Summary Remedies.*

11. (1) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the United Kingdom any infringing copy of any such work:

guilty of an offence under this Act and be summarily convicted to a fine not exceeding forty pounds, or every copy dealt with in contravention of this Act, but not exceeding fifty pounds in respect of each copy; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with hard labour for a term not exceeding two

any person knowingly make, or has in his possession, for the purpose of making, introducing, or working, for the purpose of introducing, or for the purpose of profiting, any such work to which this section applies, or the consent of the owner of the copyright in such work, to a fine not exceeding fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with hard labour for a term not exceeding two

a court before which any such proceedings are brought, whether the alleged offender is convicted or not, that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be copies or plates for the purpose of making copies, be destroyed or delivered up to the court, or be dealt with as the court thinks fit.

Nothing in this section shall, as respects musical works, affect the provisions of the Musical (Summary Proceedings) Act, 1902, or the Musical Copyright

of any person aggrieved by a summary conviction under the foregoing provisions of this Act may appeal to a court of quarter sessions in England and Wales, or to a court of quarter sessions in Scotland under and in terms of the Summary Jurisdiction (Scotland) Act.

The provisions of this Act with respect to summary proceedings shall extend only to the United Kingdom.

#### *Importation of Copies.*

Where a person imports into the United Kingdom, or attempts to do so, any copies of a work in which copyright subsists, and the owner of the copyright gives notice in writing to the Commissioners of Customs and Excise, that he is desirous that such copies should be imported into the United Kingdom, shall be deemed to be included in the table of imports, and shall, subject to the provisions of the Customs Consolidation Act, 1876, and that apply accordingly.

Where any such copies are taken away from the warehouse in which they are detained with a view to the forfeiture thereof, the Commissioners of Customs and Excise may require the regulations under which they are detained, or to be complied with, and may satisfy themselves as to the accuracy of the information that the person is prohibited by this section to be

Commissioners of Customs and Excise may, in any case, either general or special, respecting the importation of copies, the importation of copies prohibited by this section, and the conditions, fulfilled before such detention and forfeiture, such regulations, determine the information, to be given, and the evidence requisite for the purposes of this section, and the mode of giving such evidence.

The regulations may apply to copies of all works in which copyright subsists, and may provide for the informant of the Commissioners of Customs and Excise all damages incurred in respect of any detention, his information, and of any proceedings in respect of such detention; and may provide for notices of detention repealed by this Act being treated as notices under this section.

The foregoing provisions of this section shall apply to copies of works imported into the United Kingdom, if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding any Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

This section shall, with the necessary modifications, apply to the importation into a British possession of copies of works made out of

#### *Delivery of Books to Libraries.*

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand, or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopaedia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto.

#### *Special Provisions as to Certain Works.*

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor in the case of a



lecture, been delivered in public before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published or performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate herein after mentioned:

Provided that

- (i) Nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and
- (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3) The rate at which such royalties as aforesaid are to be calculated shall

- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
- (b) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no

longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions:—

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply.
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten.
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives.
- (d) The saving contained in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorizing any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section.
- (e) Where the work is a work on which copyright is conferred by an Order-in-Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act

been in force at the date of the making of the original from which the contrivance was directly or indirectly derived.

Provided that

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

30. Notwithstanding anything in this Act, it shall be an infringement of copyright in an address of a public nature delivered at a public meeting to publish or to cause to be published in a newspaper.

1. The term for which copyright shall subsist in photographs shall be fifty years from the making of the negative from which the photograph was directly or indirectly derived, and the person who was owner of the negative at the time when such negative was made shall be deemed to be the author of the work, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to be within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models for articles to be multiplied by any industrial process.

(2) General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, the same protection to the works of British authors, it shall be lawful for His Majesty by Order-in-Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of that foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

(1) Where any person is immediately before the commencement of this Act entitled to any such right in a work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to any interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if it had been in force at the date when the work was made, and the work had been one entitled to copyright under this Act.

Provided that

- a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either
  - (i) on giving such notice as herein after mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or
  - (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within

three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration; or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the *London Gazette* and in two London newspapers;

- (b) where any person has, before the twenty-first day of July nineteen hundred and ten, incurred any action whereby he has incurred expenditure or liability in connection with the reproduction or performance of any work in any manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen subsections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

#### Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by name published in the *London Gazette* that any self-governing dominion has passed legislation under which works of authors whereof were at the date of the making of this Act British subjects resident in the dominion, or of the date of the making of this Act were resident in the parts of His Majesty's dominions to which this Act extends, and which legislation is substantially identical with those conferred by this Act, then, if such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within the dominion: Provided that no such repeal shall prejudice any legal rights existing at the time of the repeal, and that on the repeal of any part thereof the residue shall remain in force. If the Legislature of a self-governing dominion, to which this Act extends, shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished)



of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, in the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor-in-Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorized to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

## PART II.

### INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order-in-Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

- (i) before making an Order-in-Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act;
- (ii) the Order-in-Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order;

(iv) the Order-in-Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order;

(v) in applying the provision of this Act as to ownership of copyright, the Order-in-Council may make such modifications as appear necessary having regard to the law of the foreign country;

(vi) in applying the provisions of this Act as to existing works, the Order-in-Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

(2) An Order-in-Council under this section may extend to all the several countries named or described therein.

30. (1) An Order-in-Council under this part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor-in-Council of any self-governing dominion to which this Act extends may, in respect of that dominion, make the like orders as if this part of the Act His Majesty in Council is authorized to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this part of the Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any order any part of his dominions not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order-in-Council to declare that such order and this part of this Act shall not, and the same shall not apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

## PART III.

### SUPPLEMENTARY PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order-in-Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order-in-Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act in compensation to a library for the loss of the right to receive gratuitous copies of books:

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires—

"literary work" includes maps, charts, plans, tables, and compilations;



"dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"work of sculpture" includes casts and models;

"architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction;

"engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

"photograph" includes photo-lithograph and any work produced by any process analogous to photography;

"cinematograph" includes any work produced by any process analogous to cinematography;

"collective work" means—

(a) an encyclopædia, dictionary, year-book, or similar work;

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;

"performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;

"plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

"lecture" includes address, speech, and sermon;

"self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published in public, and a work shall not be deemed to be delivered in public, if it is performed in public, or delivered in public, at the consent or acquiescence of the author, his administrators or assigns.

For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in other places, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other does not exceed fourteen days, or such longer period, for the time being, as may be fixed by Order-in-Council.

Where, in the case of an unpublished work, the publication of a work has extended over a considerable period, the provisions of this Act conferring copyright shall be deemed to have been complied with, if the author was, at any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

For the purposes of the provisions of this Act as to the publication of a work, a work shall be deemed to be published in the parts of His Majesty's dominions to which this Act extends, if it is published in any such part of His Majesty's dominions to which this Act extends, notwithstanding that it has been published in any other part of His Majesty's dominions to which this Act extends, if the publication in that part of His Majesty's dominions is hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) in the United Kingdom, on the First day of July Nineteen hundred and Twelve or such earlier date as may be fixed by Order-in-Council;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

## SCHEDULES.

### FIRST SCHEDULE.

#### Existing Rights.

Existing Right.	Substituted Right.
(a) In the case of works other than dramatic and musical works.	Copyright as defined by this Act.
(b) In the case of musical and dramatic works.	Copyright as defined by this Act.
Both copyright and performing right.	Copyright as defined by this Act.
Copyright, but not performing right.	Copyright as defined by this Act.
Performing right, but not copyright.	Copyright as defined by this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof have the following meanings:—

"Copyright," in the case of a work which, according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright therein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

"performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

\* In the case of an essay, article, or portion forming part of a work published in a review, magazine, or other periodical or work of a like kind, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have been entitled under section eighteen of the Copyright Act, 1842.

### SECOND SCHEDULE.

#### Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
4 Geo. 2 c. 13	The Engraving Copyright Act, 1731	Entirely
7 Geo. 3 c. 38	The Engraving Copyright Act, 1766	Entirely
15 Geo. 3 c. 53	The Copyright Act, 1775	Entirely
17 Geo. 3	The Prints Copyright Act, 1777	Entirely
54 Geo. 3 c. 56	The Sculpture Copyright Act, 1814	Entirely
3 and 4 Will. 4 c. 15	The Dramatic Copyright Act, 1833	Entirely
5 and 6 Will. 4 c. 65	The Lectures Copyright Act, 1835	Entirely
6 and 7 Will. 4 c. 59	The Prints and Engravings Copyright (Ireland) Act, 1836	Entirely
6 and 7 Will. 4 c. 111	The Copyright Act, 1836	Entirely

Session and Chapter,	Short Title	Enactment
5 and 6 Viet. c. 45	The Copyright Act, 1842	The whole Act.
7 and 8 Viet. c. 12	The International Copyright Act, 1844	The whole Act.
10 and 11 Viet. c. 95	The Colonial Copyright Act, 1847	The whole Act.
15 and 16 Viet. c. 12	The International Copyright Act, 1852	The whole Act.
25 and 26 Viet. c. 68	The Fine Arts Copyright Act, 1862	Sections <i>one to six</i> . In section <i>eight</i> the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid," Section <i>nineteen to twelve</i> .
38 and 39 Viet. c. 12	The International Copyright Act, 1875	The whole Act.
39 and 40 Viet. c. 36	The Customs Consolidation Act, 1876	Section <i>forty-two</i> , from "Books wherein" to "such copyright will expire." Sections <i>forty-four, forty-five, and one hundred and fifty-two</i> .
45 and 46 Viet. c. 40	The Copyright (Musical Compositions) Act, 1882	The whole Act.
49 and 50 Viet. c. 33	The International Copyright Act, 1886	The whole Act.
51 and 52 Viet. c. 17	The Copyright (Musical Compositions) Act, 1888	The whole Act.
52 and 53 Viet. c. 42	The Revenue Act, 1889	Section <i>one</i> , from "Books first published" to "as provided in that section."
6 Edw. 7. c. 36	The Musical Copyright Act, 1906...	In section <i>three</i> the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

(Printed by the Government Printer, Pretoria.)

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS by section twenty-eight of an Act passed by the Parliament of the United Kingdom of Great Britain and Ireland known as "The Copyright Act 1911" (the terms of which are set forth below under the heading "Annexure A") it is provided that His Majesty may by Order in Council extend the said Act to any territories under his protection and that on the making of any such Order the said Act shall subject to the provisions of such Order have effect as if the territories to which it applies were part of His Majesty's Dominions to which the said Act extends:

AND WHEREAS by Order in Council dated the 24th day of June 1912 His Majesty has been pleased to extend the said Act to Swaziland:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

The said Act is hereby declared to be in operation in Swaziland and shall be deemed to have come into operation therein on the first day of July 1912.

GOD SAVE THE KING

GIVEN under my Hand and Seal at

*Cape Town*

this *16<sup>th</sup>* day of *July*  
one thousand nine hundred and twelve.

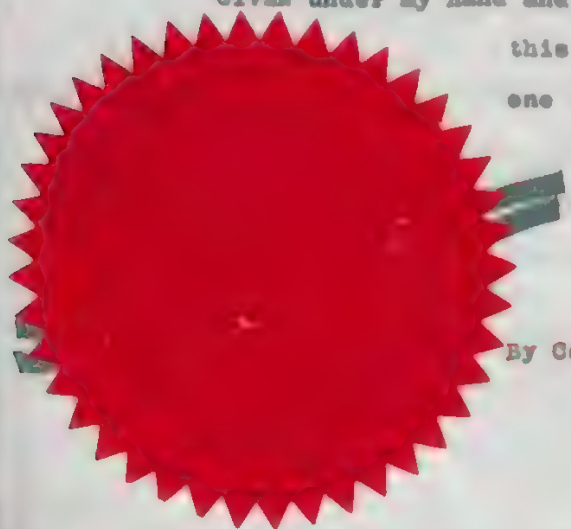
High Commissioner.

By Command of His Excellency the

High Commissioner

*(H. M. Smith)*

Imperial Secretary.





## CHAPTER 46.

## AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO COPYRIGHT.

16th December, 1911.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this behalf lawfully assembled in the House of Commons, that it is hereby enacted as follows:

## PART I.

## IMPERIAL COPYRIGHT.

*Rights.*

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term herein after mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's Dominions as aforesaid; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders-in-Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right

- (a) to produce, reproduce, perform, or publish any translation of the work;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;
- (d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorize any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, or the exhibition in public of an artistic work, or the issue of copies of an original work of art, but, for the purpose of the provisions, the issue of photographs and cinematograph films, or other contrivances, of works of sculpture and such technical works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright. Provided that the following acts shall not constitute an infringement of copyright:

- (a) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary.
- (ii) When the author of an artistic work is not the owner of the copyright therein, the use by the author or any person acting for him of a sketch, plan, model, or study made by him for the purpose of the work, provided that he does not copy a report or imitate the main design of that work.

The making of pictures or pictures, drawings, designs, or photographs of a work of sculpture or artistic or architectural work, or the making or publishing of paintings, drawings, designs, or photographs which are reproductions of such technical drawings or pictures of any such work of art,

- (iv) The publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged.
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer: but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries.
- (vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who

- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or
- (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (c) by way of trade exhibits in public; or
- (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.



Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work gives notice that he has given the proprietor of the copyright in the work notice to reproduce the work, and the proprietor has refused to reproduce the work, and the person reproducing the work has given notice to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him, and has paid to the owner of the copyright ten per cent on the price at which he published the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

author of a work shall be the first owner of the copyright therein:

where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright: and

(2) The owner of the copyright in any work may assign the right either wholly or partly and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which the Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right he assigns, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent;

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

### Civil Remedies.

2. The costs of all parties in any proceeding in respect of the infringement of copyright shall be at the absolute discretion of the Court.

if a name purporting to be that of the author of the work is printed or otherwise placed thereon in the usual manner the person so printed or designated shall, in the absence of contrary proof, be presumed to be the author of the work.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, which are made or used, or intended to be used for the purpose of selling or letting for hire or use such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may institute proceedings for the recovery of the possession thereof in respect of the conversion thereof.

8. Where proceedings are taken in respect of infringement of a copyright in any work, the defendant in his defence alleges that he was not the author of the work, he shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement of the copyright, unless he proves that at the date of the infringement he was not aware of and had no reasonable grounds for believing that copyright subsisted in the work.

9. (1) Where the construction of a building infringes the copyright in a work, the owner of the copyright shall not be liable in damages for the construction of such building or structure or its demolition.

(2) So far as the other provisions of this Act relate to the making of a work that he is the property of the owner of the copyright, or otherwise, shall not apply in any of the cases in which this section applies.

10. An action in respect of infringement of right shall not be commenced after the expiration of three years next after the infringement.

11. If any person [dwelling]

- (a) makes for sale or hire any infringing work in which copyright subsists;
- (b) sells or lets to hire, or by way of or offers for sale or hire any infringing any such work; or
- (c) distributes infringing copies of any either for the purposes of trade or extent as to affect prejudicially the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the United Kingdom any infringing copy of any such work.

be liable to be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding forty pounds for every copy dealt with in contravention of this section, but not exceeding fifty pounds in respect of the same transaction; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2) If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be liable on summary conviction to a fine not exceeding fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit.

(4) Nothing in this section shall, as respects musical works, affect the provisions of the Musical (Summary Proceedings) Copyright Act, 1902, or the Musical Copyright Act, 1906.

(5) Any person aggrieved by a summary conviction offence under the foregoing provisions of this Act in England and Ireland appeal to a court of quarter sessions and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts.

The provisions of this Act with respect to summary proceedings shall extend only to the United Kingdom.

#### *Importation of Copies.*

(1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions in this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

(2) Before detaining any such copies or taking any other proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that there are no such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

#### *Delivery of Books to Libraries.*

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopaedia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or other separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

#### *Special Provisions as to Certain Works.*

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor in the case of a



lecture, been delivered in public before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate herein after mentioned:

Provided that

- (i) Nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and
  - (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
  - (b) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing.

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no

longer equitable, the Board of Trade may, after a public inquiry, make an order either decreasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect until confirmed by Parliament; but, where revising the rate has been so made and no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing or more different works in which copyright subsists, the owners of the copyright therein are different, the sums payable by way of royalties under this Act shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, shall be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed are made, then, for the purposes of this section, of the copyright in the work shall, in relation to a person who makes the prescribed inquiries, be deemed to have been given his consent to the making of such contrivances if he fails to reply to such inquiries within the time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing any conditions under this section is to be prescribed, and the mode in which notices are to be given and the mode in which such notices, and the mode of payment of royalties, and any other matters relating to the frequency of the payment of royalties, and any other matters, may, if the Board think fit, include regulations requiring payment in advance or otherwise of the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications:—

- (a) The conditions as to the previous making of the work or with the consent or acquiescence of the owner of the copyright in the work, and the restrictions as to alterations in the work, shall not apply.
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. but no royalties shall be payable in respect of contrivances sold before the 1st of July, nineteen hundred and thirteen, or of contrivances reproducing the same work lawfully made, or placed on sale before the 1st of July, nineteen hundred and thirteen, in the parts of His Majesty's dominions to which this Act extends before the first of July, nineteen hundred and ten.
- (c) Notwithstanding any assignment made after the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be paid for the benefit of, the author or his legal personal representatives.
- (d) The saving contained in this Act in relation to the making of contrivances, and interests arising from, or the making of, contrivances, with, action taken before the commencement of this Act shall not be construed as affecting any person who has made contrivances of which the work may be mechanically performed to sell any such contrivances made before or after the passing of this Act except on the terms and subject to the conditions laid down in this section.
- (e) Where the work is a work on which copyright subsists conferred by an Order-in-Council made by His Majesty in Council to a foreign country, the copyright shall not, except to such extent as may be provided by the Order, include any right with respect to the making of contrivances, or of perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act in relation to the making of contrivances, or of records, or of perforated rolls, or of other contrivances by means of which sounds may be mechanically reproduced, made before the commencement of this Act, the provisions of this Act shall, as from the commencement of this Act, have effect therein in like manner and for the like term

been in force at the date of the making of the original from which the contrivance was directly or indirectly

Provided that

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to be within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models for articles to be multiplied by any industrial process.

General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be used for such purposes as aforesaid.

If it appears to His Majesty that a foreign author does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order-in-Council to make such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of a foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

(1) Where any person is immediately before the commencement of this Act entitled to any such right in a work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to some interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if it had been in force at the date when the work was first published, and the work had been one entitled to copyright under this Act.

Provided that

- (a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either
- (i) on giving such notice as herein after mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or
- (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within

three years after the date at which the right would have so expired, of any royalties to the author as, failing agreement, may be determined by arbitration; or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the *London Gazette* and in two London newspapers;

- (b) where any person has, before the twenty-sixth day of July nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen subsections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

#### Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the *London Gazette* that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished)



of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor-in-Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorized to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

## PART II.

### INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order-in-Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

- (i) before making an Order-in-Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act;
- (ii) the Order-in-Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order:

(iv) the Order-in-Council may provide enjoyment of the rights conferred shall be subject to the accomplishment of conditions and formalities (if any) prescribed by the Order;

(v) in applying the provision of this ownership of copyright, the Order may make such modifications as are necessary having regard to the law of the country;

(vi) in applying the provisions of this existing works, the Order-in-Council may provide that nothing in those provisions shall be construed as a right of preventing the production of any translation in any country where the right has ceased by virtue of section 17 of the International Copyright Act, 1887.

(2) An Order-in-Council under this section shall extend to all the several countries named therein.

30. (1) An Order-in-Council under this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions other possession specified in the order to which it appears to His Majesty expedient that it should not apply.

(2) The Governor-in-Council of any self-governing dominion to which this Act extends may, as the Governor-in-Council is authorized to do in respect to His Majesty's dominions other self-governing dominions, and the provisions of this Act shall, with the necessary modifications, apply to such dominions.

(3) Where it appears to His Majesty in Council that it is expedient to do so, he may, by Order-in-Council, declare that such order and the provisions of this Act shall not, and the same shall not apply except so far as is necessary for preventing to any rights acquired previously to the Order.

## PART III.

### SUPPLEMENTARY PROVISIONS.

31. No person shall be entitled to copy or to publish a copy of any literary, dramatic, artistic work, whether published or unpublished, in any manner other than as provided by this Act, or of any other statutory enactment being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction in respect of a breach of trust or confidence.

32. (1) His Majesty in Council may, by Order-in-Council, make any Order for altering, revoking, or varying any Order made under this Act, or under any enactment made by this Act, but any Order made under this section shall not affect prejudicially any rights or interests accrued at the date when the Order comes into force, and shall provide for the protection of such interests.

(2) Every Order-in-Council made under this section shall be published in the *London Gazette* and before both Houses of Parliament as soon as it is made, and shall have effect as if enacted.

33. Nothing in this Act shall deprive universities and colleges mentioned in the Statute in 1775, of any copyright they already possessed by the Act, but the remedies and penalties for infringement of any such copyright shall be under this Act that Act.

34. There shall continue to be charged out of the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of the Act as compensation to a library for the loss of books received gratuitously from the library.

Provided that this compensation shall be paid to a library in any year, unless the Treasury certify that the compensation for the previous year has been applied in the purchase of books for the library preserved in the library.

35. (1) In this Act, unless the context requires—

"literary work" includes maps, plans, tables, and compilations:



"dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"work of sculpture" includes casts and models;

"architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or a model for such building or structure provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction;

"engravings" includes etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

"photograph" includes photo-lithograph and any work produced by any process analogous to photography;

"cinematograph" includes any work produced by any process analogous to cinematography;

"collective work" means—

(a) an encyclopaedia, dictionary, year-book, or similar work;

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated.

"copy" when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;

"mechanical representation" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;

"plate" includes any stereotype or other plate, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

"lecture" includes address, speech, and sermon;

"self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

2. For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a person shall not be deemed to be delivered in public, if it is not published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

3. For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in any other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order-in-Council.

(4) Where, in the case of an unpublished work, the term of protection of this Act has extended over a considerable period, the conditions of this Act concerning copyright shall be deemed to have been complied with, if the author was, at any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such parts.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) in the United Kingdom, on the First day of July Nineteen hundred and Twelve or on such other date as may be fixed by Order-in-Council;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

## SCHEDULES.

### FIRST SCHEDULE.

#### Existing Rights.

Existing Right.	Substituted Right.
(a) In the case of works other than dramatic and musical works.	Copyright as defined by this Act.*
(b) In the case of musical and dramatic works.	
Both copyright and performing right	Copyright as defined by this Act.*
Copyright, but not performing right	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright	The sole right to perform the work to the public, but none of the other rights conferred in copyright as defined in this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings:—

"Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

"performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

\* In the case of an essay, article, or portion forming part of and published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to an agreement or arrangement for the publication of the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have been entitled under section eighteen of the Copyright Act, 1842.

### SECOND SCHEDULE.

#### Enactments Repealed.

Enactment.	Extent of Repeal.
The Engraving Copyright Act, 1734	The whole Act.
The Engraving Copyright Act, 1767	The whole Act.
The Copyright Act, 1775	The whole Act.
17 Geo. 3. The Prints Copyright Act, 1777	The whole Act.
54 Geo. 3. The Sculpture Copyright Act, 1814	The whole Act.
The Dramatic Copyright Act, 1833	The whole Act.
The Lectures Copyright Act, 1835	The whole Act.
The Prints and Engravings Copyright (Ireland) Act, 1836	The whole Act.
The Copyright Act, 1836	The whole Act.

Source	Serial Title	Location & Remarks
1940-1941	The American Art School	Am. Art Sch.
1942-1943	The American Art School	Am. Art Sch.
1944-1945	The American Art School	Am. Art Sch.
1946-1947	The American Art School	Am. Art Sch.
1948-1949	The American Art School	Am. Art Sch.
1950-1951	The American Art School	Am. Art Sch.
1952-1953	The American Art School	Am. Art Sch.
1954-1955	The American Art School	Am. Art Sch.
1956-1957	The American Art School	Am. Art Sch.
1958-1959	The American Art School	Am. Art Sch.
1960-1961	The American Art School	Am. Art Sch.
1962-1963	The American Art School	Am. Art Sch.
1964-1965	The American Art School	Am. Art Sch.
1966-1967	The American Art School	Am. Art Sch.
1968-1969	The American Art School	Am. Art Sch.
1970-1971	The American Art School	Am. Art Sch.
1972-1973	The American Art School	Am. Art Sch.
1974-1975	The American Art School	Am. Art Sch.
1976-1977	The American Art School	Am. Art Sch.
1978-1979	The American Art School	Am. Art Sch.
1980-1981	The American Art School	Am. Art Sch.
1982-1983	The American Art School	Am. Art Sch.
1984-1985	The American Art School	Am. Art Sch.
1986-1987	The American Art School	Am. Art Sch.
1988-1989	The American Art School	Am. Art Sch.
1990-1991	The American Art School	Am. Art Sch.
1992-1993	The American Art School	Am. Art Sch.
1994-1995	The American Art School	Am. Art Sch.
1996-1997	The American Art School	Am. Art Sch.
1998-1999	The American Art School	Am. Art Sch.
2000-2001	The American Art School	Am. Art Sch.
2002-2003	The American Art School	Am. Art Sch.
2004-2005	The American Art School	Am. Art Sch.
2006-2007	The American Art School	Am. Art Sch.
2008-2009	The American Art School	Am. Art Sch.
2010-2011	The American Art School	Am. Art Sch.
2012-2013	The American Art School	Am. Art Sch.
2014-2015	The American Art School	Am. Art Sch.
2016-2017	The American Art School	Am. Art Sch.
2018-2019	The American Art School	Am. Art Sch.
2020-2021	The American Art School	Am. Art Sch.
2022-2023	The American Art School	Am. Art Sch.
2024-2025	The American Art School	Am. Art Sch.

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is expedient to prevent the sale or exhibition in the Bechuanaland Protectorate of indecent or obscene books pictures prints and other articles;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. For the purpose of this Proclamation the word "publication" shall include any book, newspaper, pamphlet, magazine, periodical, letterpress, writing, print, picture, engraving, lithograph, photograph, drawing or other similar representation.

2. Any person who imports into the Bechuanaland Protectorate or who within the Bechuanaland Protectorate makes, manufactures or produces any indecent or obscene publication shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.

3. Any person who sells, or distributes, or offers for sale or distribution, or who wilfully exposes or causes to be exposed to public view, any indecent or obscene publication shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and imprisonment and if such person be a male he shall further be liable to whipping not exceeding twenty four strokes in addition to any other punishment imposed upon him under this section.

4. It shall be lawful for any Assistant Commissioner or Resident Magistrate if

(a) a complaint has been made before him upon oath that the complainant has reason to believe and does believe that any indecent or obscene publication is kept in any house, shop, room, or other place within the limits of his jurisdiction for purposes of sale or distribution or for exhibition, lending upon hire or publication in any other manner; and

(b) the complainant also states upon oath that one or more publications of the like character have been sold, or distributed, exhibited, lent, or otherwise published as aforesaid at or in connection with such place; and

(c) the Assistant Commissioner or Resident Magistrate is satisfied that the belief of the complainant is well founded and that any of the publications so kept for any of the purposes



afore said are of such a character and description that the sale, distribution, or exposure of them would be an offence against this Proclamation and proper to be prosecuted as such;

to give authority by special warrant to any European member of the Police Force to enter in the day-time any such house, shop, room or other place with such assistance as may be necessary and, if necessary, to use force by breaking open doors or otherwise, and to search for and seize all such indecent and obscene publications as aforesaid found in any such house, shop, room, or other place and to carry all the articles so seized before the Assistant Commissioner or Resident Magistrate issuing the said warrant or some other Assistant Commissioner or Resident Magistrate exercising the same jurisdiction and such Assistant Commissioner or Resident Magistrate shall thereupon cause a summons to issue calling upon the occupier of the house or other place which may have been so entered by virtue of the warrant to appear within seven days before any Assistant Commissioner or Resident Magistrate to show cause why the articles so seized should not be destroyed. If such occupier or some other person claiming to be the owner of the said articles do not appear within the time aforesaid, or if such person does appear and the Assistant Commissioner or Resident Magistrate be satisfied that such articles or any of them are of the character stated in the warrant and that such articles or any of them have been kept for any of the purposes aforesaid it shall be lawful for such Assistant Commissioner or Resident Magistrate and he is hereby

required to order the articles so seized or any of them to be destroyed at the expiration of the time allowed by law for lodging an appeal against the decision of such Assistant Commissioner or Resident Magistrate unless notice of appeal be given within such time. In that event all such articles shall be impounded pending the result of such appeal. If such Assistant Commissioner or Resident Magistrate be satisfied that the articles seized are not of the character stated in the warrant or have not been kept for any of the purposes aforesaid he shall forthwith direct them to be restored to the occupier of the house or other place in which they were seized.

5. The owner of any indecent or obscene publications ordered to be destroyed under the last preceding section shall be liable, in addition to the forfeiture of the said publications, to be prosecuted, and to be convicted of any offence against this Proclamation which may be proved against him.

6. No legal proceeding of any nature shall be instituted against any person for anything done or omitted to be done under the authority or in pursuance of this Proclamation unless notice in writing has been given by the party intending to institute such proceeding or to the intended defendant one calendar month at least before the institution thereof nor unless such proceeding has been instituted within three calendar months next after the act or omission complained of or if damage caused by the said act or omission be continuing then within three calendar months next after such damage has ceased.

7. Any person who sends by post any indecent or obscene publication or post card or any other indecent or obscene article or any letter, publication, packet, or post card having thereon or on any cover thereof any word, mark, or design of an indecent or obscene character shall be liable on conviction to a fine not exceeding one hundred pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and imprisonment.

8. This Proclamation may be cited for all purposes as The Obscene Publications (Bechuansland Protectorate) Proclamation 1912 and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

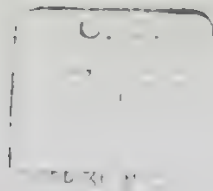
Given under my Hand and Seal at *Cape Town*  
this *16<sup>th</sup>* day of *July* One thousand  
Nine hundred and twelve.



*[Signature]*  
High Commissioner.

Command of *[Signature]* Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
-----

WHEREAS it is provided by the terms of certain mineral concessions in respect of land in Swaziland that the holders thereof shall become liable on the happening of certain events to pay over and above any rental or other sum theretofore payable by such holders either a sum in the nature of bonus or sums in the nature of rental or both;

AND WHEREAS all sums in the nature either of bonus or rental payable under Swaziland mineral concessions are payable to the Swaziland Administration

AND WHEREAS it is expedient to enable the holders of such concession to commute such contingent liability in the manner hereinafter appearing:

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows:-



1. In this Proclamation unless inconsistent with the context:-

"mineral concession" shall mean a concession made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908 giving a right to precious or base metals precious stones minerals or mineral products on any area:

"Holder" in relation to a mineral concession shall mean the registered holder of such concession or the executor or legal representative of such registered holder:

"Commuted mineral concession" shall mean a mineral concession the holder whereof has commuted his contingent liabilities thereunder as provided in section two of this Proclamation.

2. Where under the terms of a mineral concession it is provided that the holder thereof shall become liable on the happening of a certain event to pay over and above any rental or other sum theretofore payable by such holder either a sum in the nature of a bonus or sums in the nature of rental or both such holder may at any time within two years from the date of the taking effect of this Proclamation notify to the Resident Commissioner in such form as the Resident Commissioner may prescribe his desire to commute such contingent liability for a liability to pay a royalty and tax under this Proclamation and at the same time declare a domicilium citandi et executandi chosen by

him in Swaziland. The Resident Commissioner shall upon receipt of such notification and declaration fix a date not being more than twelve months subsequent to the date of such receipt upon which such commutation shall take effect and such commutation shall take effect accordingly.

3. (i) There shall be payable to the Swaziland Administration a two and a half per cent royalty on the annual net produce obtained from mining under a commuted mineral concession: such net produce shall be taken to be the value of the precious or base metals precious stones minerals or mineral products produced after deduction therefrom of the cost of production.
- (ii) The provisions of the Profits Tax (Gold Mines) Proclamation 1902, of the Transvaal as amended by the General Revenue Amendment Ordinance, 1906, shall apply mutatis mutandis with respect to the assessment and recovery of the royalty payable under this section as if the same were a tax payable under that Proclamation provided always that in assessing the amount of such royalty no allowance shall be made in respect of the exhaustion of capital.
- (iii) The royalty payable in respect of a commuted mineral concession under this Proclamation shall be in addition to

(a) any sum in the nature of rental or royalty which may be payable under the terms of such concession at the date of commutation, and

(b) any sum payable in respect of such concession under the provisions of section nineteen of the Swaziland Administration Proclamation 1904 or any amendment thereof.

4. (i) Where the land held under any commuted mineral concession has not been adequately prospected or worked during any calendar year a tax of three shillings for every hundred morgen of land held under such concession shall be payable by the holder thereof to the Swaziland Administration in respect of such calendar year.

(ii) Where it shall appear to the Resident Commissioner that the tax mentioned in this section is payable in respect of any commuted mineral concession for a calendar year he shall give notice to the holder of such concession not later than the month of June in the succeeding calendar year that such tax is payable and such tax shall become due and payable on the expiration of three months from the date when such notice is given: provided that such holder may if aggrieved by such notice appeal within a period of sixty days from such date to the High Commissioner who may allow or dismiss the appeal and whose decision shall be final and in case on such appeal the High Commissioner shall uphold the decision of the Resident Commissioner the tax shall become due and payable on the expiration of one month from the date on which notice of the High Commissioner's decision is given to

the holder of the concession.

(iii) Any Notice which is required by this section to be given to the holder of a mineral concession may be served personally or by registered letter addressed to such holder at the address declared by him or his predecessor in title under Section two, or at such other domicilium citandi et executandi as such holder may have chosen in Swaziland and notified to the Resident Commissioner.

(iv) Where any tax payable under this section is not paid on or before the date on which the same becomes payable interest shall be charged thereon at the rate of one per cent for every month or part of a month during which the same remains unpaid after such date.

(v) No tax shall be payable under this section in respect of any commuted mineral concession for any calendar year prior to the first complete calendar year succeeding that in which commutation of the contingent liability under such concession took effect.

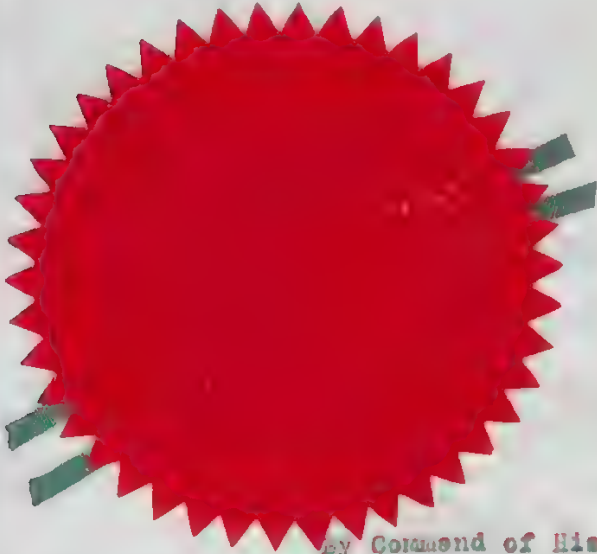
5. This Proclamation may be cited for all purposes as the Swaziland Mineral Concessions Commutation Proclamation 1912 and shall have force and take effect on the first day of *September* 1912.

G O D S A V E T H E K I N G !

- Given -



Given under my Hand and Seal at Pretoria  
this *twentieth* day of *July* One thousand  
Nine hundred and Twelve.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

**PROCLAMATION**

By His Excellency the High Commissioner.

WHEREAS it is desirable to make provision out of the public revenue or other funds of Basutoland for the service of the year ending the thirty-first day of March 1913;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue or other funds of Basutoland are hereby charged towards the service of the year ending the thirty-first day of March 1913 with a sum of £181,714 (one hundred and eighty-one thousand seven hundred and fourteen pounds).

2. The moneys granted by this Proclamation shall be applied to the purposes and services set forth in the Schedule annexed hereto and more particularly specified in the estimates of the expenditure of Basutoland for the year ending the thirty-first day of March 1913 submitted to and approved by the Secretary of State for the Colonies.

3. The moneys granted by this Proclamation shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Proclamation.

4. This Proclamation may be cited as the Basutoland Appropriation 1912-13 Proclamation 1912 and shall have force and take effect from the first day of April, 1912.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Sixth day of September One thousand Nine hundred and Twelve.

REGD. C. HART,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,

Imperial Secretary.

**SCHEDULE.**

1. Establishments...	£15,601
2. Police ... ..	20,967
3. Post Office ... ..	4,600
4. Allowances to Chiefs and Headmen...	7,000
5. Medical Expenses ... ..	1,200
6. Office Contingencies ... ..	2,700
7. Revenue Services ... ..	200
8. Administration of Justice ... ..	3,880
9. Public Works ... ..	11,806
10. Hospitals ... ..	11,606
11. Education ... ..	11,218
12. Rewards for Special Services ... ..	100
13. Audit ... ..	375
14. Miscellaneous ... ..	5,000
15. Agriculture ... ..	1,500
16. National Council ... ..	1,500
17. Pensions ... ..	2,000

£149,049

**Capital Expenditure:—**

Purchase of Live Stock, Construction of Dipping Tanks, Show Yards, etc. ... ..	£2,005
Public Works ... ..	1,375
Leper Settlement ... ..	23,285
Additions to Telephone System ... ..	6,000

£181,714

500  
32000  
1912

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is expedient to establish a Special Court for the Bechuanaland Protectorate for the trial of such cases civil and criminal as are hereinafter mentioned and (save as is herein otherwise provided) to exclude such cases from the jurisdiction of the Courts of Resident Commissioner Assistant Commissioner and Resident Magistrate:

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1. (1) There shall be and is hereby established for the Bechuanaland Protectorate a Court to be called "The Special Court of the Bechuanaland Protectorate" which shall be held at such time and at such place or places as the Resident Commissioner shall publicly notify and shall consist of a Judge of the Supreme Court of South Africa or of the High Court of one of the South African Territories or an Advocate duly admitted to practise in any such Court appointed by the High Commissioner to be President of the Court, and any two Assistant Commissioners nominated in writing by the Resident Commissioner.

(2) Such Court shall have jurisdiction in respect of the following cases:-

(a) Civil actions in which either party is a European and in which the claim or value of any property in dispute exceeds one thousand pounds or in which the action is for the divorce of persons joined in matrimony or for a declaration of nullity of marriage;

(b) Criminal cases in which the accused is a European and is charged on indictment with any of the following offences -

treason, murder, culpable homicide, rape, perjury, arson, offences relating to the coinage and if the property the subject of the offence exceeds one thousand pounds, theft, receiving stolen property knowing the same to have been stolen, robbery, forgery, uttering forged documents knowing the same to be forged, fraud: and attempts to commit any offence in this subsection mentioned;

(c) Such cases pending in the Court of Resident Commissioner or in the Court established under Section four of Proclamation No. 2 of 1896 as such Court may on its own mere motion remove to the said Special Court;

(d) Such civil actions pending in any Court of Assistant Commissioner or Resident Magistrate in which either party is a European as such Court may either on application to it by either party to the action or on its own mere motion remove to the said Special Court.



(3) Whenever the members of the said Special Court differ in judgment the judgment of the majority shall be the judgment of the Court; provided that in every criminal case in which the majority find the accused guilty the member dissenting shall state his reasons in writing for the information of the High Commissioner.

(4) Nothing herein contained shall be taken to affect or interfere with the provisions of Section ten of the Proclamation of June 10th 1891 but the provisions of Section eleven of the said Proclamation shall not apply to the said Special Court.

(5) Nothing in this Proclamation contained shall be deemed to deprive any person of any right of appeal to His Majesty in his Privy Council against any final judgment decree sentence or order of the said Special Court.

2. Notwithstanding anything contained in the Proclamation of June 10th 1891 Proclamation No. 2 of 1896 or any Proclamation amending either of such Proclamations no Court of Resident Commissioner Assistant Commissioner or Resident Magistrate established in the Bechuanaland Protectorate and no Court established under Section four of Proclamation No. 2 of 1896 shall have jurisdiction in any case mentioned in Sub-section (2) (a) of Section one of this Proclamation or in any case mentioned in Sub-section (2) (b) of the said Section otherwise than for the purpose of conducting a preliminary examination unless both of the parties or the accused as

the case may be shall apply to have such case tried before such Court and such Court shall grant such application provided that such Court shall not grant such application except in cases which but for the provisions of this Proclamation would have been within the jurisdiction of such Court.

Such application shall in civil cases be made before the pleadings are closed and in criminal cases before the indictment is filed in the said Special Court. On the grant of such application all documents filed in the said Special Court in connection with any such case shall be removed to the Court to which such case has been transferred and the proceedings in respect thereof shall be deemed to be in such Court.

3. (1) Notwithstanding anything contained in the last preceding Section it shall be lawful for any Court of Assistant Commissioner or Resident Magistrate at any time when the said Special Court is not sitting to hear and determine

- (a) all motions and applications (including applications for arrests and interdicts of persons and things) in respect of any claim debt or matter in dispute which is within the jurisdiction of the said Special Court whether an action in respect thereof is pending in the said Special Court or not;
- (b) all actions for provisional sentence which are within the jurisdiction of the said Special Court;
- (c) all trial cases commenced in the said Special Court in which either the Plaintiff or the Defendant is in default or in which

consent to judgment is filed by the Defendant;- where such Court would but for the provisions of the last preceding Section have had jurisdiction to hear and determine such case.

(2) For the purpose of exercising the jurisdiction referred to in this Section a Court of Assistant Commissioner or Resident Magistrate may take cognizance of all documents filed in the said Special Court in respect of any such case as is herein mentioned in the same way as if such documents had been filed in such Court.

(3) In all such cases as are mentioned in this Section an appeal shall lie from the decision of a Court of Assistant Commissioner or Resident Magistrate to the said Special Court, and the provisions of Section five of Proclamation No. 2 of 1896 shall apply to any such appeal.

4. The High Commissioner may from time to time make alter and rescind rules respecting the manner and form of procedure and the fees and charges to be taken by officers and practitioners in the said Special Court; provided always that until such rules are made the rules of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa in force at the date of the taking effect of this Proclamation shall apply mutatis mutandis to such matters in the said Special Court.

5. The said Special Court shall be deemed to be one of the Courts of the Protectorate referred to in the

High Commissioner's Proclamation No. 15 of 1904 dated 15th of May 1904 for all purposes of the said Proclamation and all advocates and attorneys entitled or admitted to practise as advocates and attorneys of the Courts of the Protectorate under the said Proclamation may practise as advocates and attorneys respectively of the said Special Court.

6. Any proceedings in any case civil or criminal pending in any Court lawfully established in the Bechuanaland Protectorate at the date of the taking effect of this Proclamation which is by the provisions of this Proclamation excluded from the jurisdiction of such Court shall except in the case of any preparatory examination in a criminal case be taken to be removed as from such date to the said Special Court and shall be dealt with and determined by the said Special Court; provided that in the taxation of bills of costs in any such proceedings the fees recoverable in respect of any matter or thing done prior to such date shall be in accordance with the tariff of fees prescribed for the Court in which such proceedings were pending.

7. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Special Court Proclamation 1912 and shall have force and effect from the *first* day of *October* 1912.

G O D S A V E T H E K I N G !

- Given -



Given under my Hand and Seal at *Pretoria*  
this *Twelfth* day of *September* One thousand  
Nine hundred and Twelve.



*[Signature]*

High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to proclaim certain portions of land in Swaziland to be Crown Lands;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903, as amended by the Swaziland Order-in-Council 1906, and the Swaziland Order-in-Council 1909, and by virtue of the further authority conferred upon me under the Swaziland Crown Lands and Minerals Order-in-Council 1908, as amended by the Swaziland Crown Lands and Minerals Amendment Order-in-Council 1910, I do hereby declare proclaim and make known as follows:-

The areas of land in Swaziland described in the Schedule to this Proclamation shall from the date of the publication of this Proclamation in the Gazette be Crown Lands and shall be registered and known as numbered in the said Schedule; provided always that the proclamation of the said areas as Crown Lands shall not

- affect -

affect any concession lease servitude or other right  
subsisting in respect of any of the said areas which  
is registered at the date of such publication and is  
not vested in the Crown.

G O D   S A V E   T H E   K I N G .

GIVEN under my Hand and Seal at *Portoria*  
this *twelfth* day of *September* one thousand  
nine hundred and twelve.



*[Signature]*  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

S C H E D U L E.

Lot No. 12.

District Ubombo.

Portion of land held under Land Concession No.145 in extent 9579 morgen 267 square roods as shewn on diagram S.G.No.3.6/11 confirmed by the Surveyor-General by the figure A,B,C,K,H,G.

---

Lot No.13.

District Ubombo.

Portion of land held under Land Concession No.151 in extent 10491 morgen 20 square roods as shewn on diagram S.G.No.3.29/11 confirmed by the Surveyor-General by the figure U,Q ,B,T,C. mid Great Usutu River to its junction with holoba Spruit at D, mid holoba Spruit to N.L, mid spruit to its junction with Manshanja River at L, mid Manshanja River to K,h, mid spruit to its junction with Umsatse River at G, mid Umsatse River to R,U.

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Lot No.14.

District Khabane.

Portion of land held under Land Concession No.51 in extent 1195 morgen 65 square roods, as shewn on diagram S.G.No. 3.21/10 confirmed by the Surveyor-General by the figure A,B,C,D,O, mid Tchelela Spruit to K,L,K,A.

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Lot No.15.

District Ubombo.

Portion of land held under Land Concession No.31 P. in extent 5619 morgen 415 square roods as shewn on diagram S.G.No.3.13/11 confirmed by the Surveyor-General by the figure E,H,B,C, mid Anyama River to E.

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PROCLAMATION No. 19 of 1912

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient to cancel the Selection of land from Perpetual Concession No. 19 made by the Special Commissioner under Section four of the Swaziland Concessions Partition Proclamation, 1907;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare proclaim and make known as follows:-

1. The Selection of land from Perpetual Concession No. 19 made by the Special Commissioner under Section four of the Swaziland Concessions Partition Proclamation 1907 as described in his Report dated the 23rd day of July 1909 which took effect under and by virtue of the provisions of Proclamation No. 21 of 1909 as provided in High Commissioner's Notice No. 90 of 1909 shall be and is hereby cancelled.

2. The said Perpetual Concession No.19 shall be subject in all respects to the provisions of Section four of the Swasiland Concessions Partition Proclamation 1907 as amended as if no Selection had been made.

3. This Proclamation shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G

GIVEN under my Hand and Seal at *Pretoria*

this *Twenty seventh* day of *September* . one thousand  
nine hundred and twelve.



A handwritten signature in dark ink, appearing to be 'H. J. ...', written over a horizontal line.

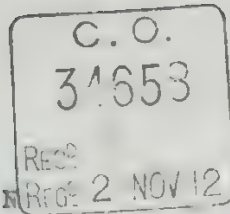
High Commissioner.

By Command of His Excellency the High Commissioner.

A handwritten signature in dark ink, appearing to be 'H. J. ...', written in a cursive style.

Imperial Secretary.

No 43 of 1912



PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to make further provision out of the public revenue of Swaziland to meet certain additional expenditure incurred during the financial year which ended the thirty-first day of March 1912;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909 I do hereby declare proclaim and make known as follows :-

1. The public revenue of Swaziland is hereby charged with a further sum of £206.0.4. (Two hundred and six pounds and fourpence) to meet expenditure incurred during the financial year which ended the thirty-first day of March 1912 in excess of the amounts appropriated for the service of that year according to the particulars set forth in the Schedule to this Proclamation.

2. This Proclamation may be cited as the Swaziland Further Appropriation (1911-1912) Proclamation 1912 and shall have force and take effect from the

- date -

date of its publication in the Gazette.

GOD SAVE THE KING!

GIVEN under my Hand and Seal at  
this *twelfth* day of *October* One thousand  
nine hundred and twelve.

*Porto*



High Commissioner.

By Command of His Excellency  
the High Commissioner.

*Imperial Secretary*

Imperial Secretary.

SCHEDULE

Head of Service	Amount Provided	Amount Expended	Excess
Transport	£ 790	£ 849. 2. 9.	£ 59. 2. 9.
Miscellaneous	<u>1,315</u>	<u>1,461.17. 7.</u>	<u>146.17. 7.</u>
Totals	<u>£2,105</u>	<u>£2,311. 0. 4.</u>	<u>£206. 0. 4.</u>



25-1-12

P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is expedient to vary certain compensation schemes prepared by the Special Commissioner for Swaziland under Proclamation No. 15 of 1909 and confirmed by the High Commissioner;

AND WHEREAS it is also expedient to vary certain selections of land made by the Special Commissioner under Section four of the Swaziland Concessions Partition Proclamation, 1907, and a certain right of out-span awarded by the Special Commissioner under Section two of Proclamation No. 13 of 1909;

AND WHEREAS it is expedient to make provision with regard to the taking effect of certain further decisions of the Special Commissioner contained in a report dated the 19th day of March 1912;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:-

1. Compensation Schemes in respect of the following land Concessions, that is to say:-

No. 80 L. and

No. 79 L.

No. 200 L.

and portion of No. 133 (The Unallotted Land Concession) prepared by the Special Commissioner under Proclamation No. 15 of 1909 as described in his report dated the 23rd day of July 1909 and confirmed by the High Commissioner, as notified by High Commissioner's Notice No. 90 of 1909, shall be and are hereby varied in the manner and to the extent set forth in the first schedule to this Proclamation and shall be deemed to have taken effect as so varied on the date when confirmation of the said schemes was notified in the Gazette namely, the 31st day of December 1909.

2. Selections of land from the areas of the following land Concessions, that is to say:-

No. 10 L

No. 15 P.

No. 24 P.

and Umbendine's Pride

made by the Special Commissioner under Section four of the Swaziland Concessions Partition Proclamation 1907, as described in the said Report dated 23rd day of July 1909, which took effect under and by virtue of the provisions of Proclamation No. 21 of 1909, as provided in High Commissioner's Notice No. 90 of 1909, shall be and are hereby varied in the manner and to the extent set forth in the second schedule to this Proclamation

and shall be deemed to have taken effect as so varied in accordance with the provisions of the said Notice on the dates specified therein.

3. The award of the right of outspan at the Hero Store made by the Special Commissioner under Section two of Proclamation No. 13 of 1909 and described in his report dated the 23rd day of July 1909, which took effect under and by virtue of Proclamation No. 21 of 1909 on the 1st day of January 1910 shall be and is hereby varied in the manner and to the extent set forth in the third schedule to this Proclamation and shall be deemed to have taken effect as so varied on the said 1st day of January 1910.

4. Where the Special Commissioner has in his report dated the 19th day of March 1912, made any recommendation as to the selection of land such recommendation shall be deemed to be a selection of land duly made by the Special Commissioner under Section four of the Swaziland Concessions Partition Proclamation 1907; and the provisions of Section one of Proclamation No. 21 of 1909 shall subject to the provisions of Section two of Proclamation No. 16 of 1911 apply accordingly to such selections.

5. Any award of a right of way made by the Special Commissioner in his said report dated the 19th day of March 1912, under Section two of Proclamation No. 13 of 1909 shall take effect on the date of the publication of this Proclamation in the Gazette.

6. There shall be no right of appeal under Section nine of the Swaziland Concessions Partition Proclamation 1907, against any selection of land or against any award of a right of way made by the Special Commissioner in his said report dated the 19th day of March 1912.

7. This Proclamation shall be read as one with the Swaziland Concessions Partition Proclamation 1907, and any Proclamation amending the same and shall save as is specially provided in Sections one, two, and three have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Mboma*  
this *Eighteenth* day of *October* One thousand  
nine hundred and twelve.



*[Signature]*  
High Commissioner

By Command of His Excellency  
the High Commissioner.

*[Signature]*

Imperial Secretary.

FIRST SCHEDULE

Land Concessions No. 80 L and No. 79 L.  
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The reference to line Beacons A G - A H contained in the Compensation Scheme in Part I of the Special Commissioner's Report dated 23rd July 1909 pages 23 and 24 (as published in the Gazette Extraordinary of 24th August, 1909) shall be deleted and the South Western corner of Land Concession No. 79 L. shall extend to its original beacon 79 b.

The small portion, approximately two morgen of Land Concession No. 80 L. to be given in compensation to Land Concession No. 79 L. shall be cut off as follows:-  
"From beacon D2 to beacon 11b and thence to beacon S, a shifting point". "S" shall be so placed on the Eastern boundary line 11b - G of Land Concession No. 80 L. that the area of the small triangle thus described shall be equal to the area by which Land Concession No. 79 L. is less than two-thirds of its original extent.  
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Land Concession No. 200 L.  
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The description of the Compensation Scheme set forth in Part I of the said Report page 26 (as published in the Gazette Extraordinary of 24th August 1909) shall be deleted and the following description substituted therefor:-

(1). A portion of unallotted land within the area selected from Concession No. 48 L. a grazing right.

- " From -



"From beacon L.194 to beacon L.193, thence up the Transvaal-Swaziland river boundary to beacon L.193 a, thence along the line L.193a - L195 to beacon N (a shifting beacon), thence to beacon M, a beacon South of Malen's house and thence back to beacon L.194".

Beacon N shall be so placed that the area thus described is as near as possible 200 morgen in extent. (2). A small triangle in extent 86 morgen 530 square rods being a portion to be selected from Perpetual Land Concession No. 27 P. within the selection from Concession No. 48 L.

b"From beacon L.193 to beacon L.194, thence to beacon "S" on the line L193-L193B and thence back to beacon L.193". Beacon "S" shall coincide with the South Eastern corner beacon of the Selection from Concession No. 48 L.

-----  
The Unallotted Lands Concession No. 133  
(Portion)  
-----

The area of the Compensation Scheme to the Mercantile Association of Swaziland, Limited, described in Part I of the said Report page 27 (as published in the Gazette Extraordinary of the 24th August 1909) shall be increased by twenty three morgen. The boundaries shall be as described in the said Report, the shifting beacon being so placed as to include the additional area.

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SECOND SCHEDULE

Land Concession No.10 L.  
-----

Paragraph 8 of that portion of Part II of the Special Commissioner's Report dated 23rd July 1909 pages 29 and 30 (as published in the Gazette Extraordinary of 24th August 1909) dealing with Land Concession No.10 L. shall be deleted and the following shall be the description of the boundaries of the further selections taken from the Concession.

(1) N.J. and J.C. Breytenbach's portion:-

"From beacon 31 c along the South Eastern boundary of the selection described on page 30 of the said Report - second paragraph - to beacon M thence along the Northern boundary of Concession No. 10 L. to beacon "B" (to be erected at the intersection of the Commissie Nek road about half a mile from Beacon M) thence in a straight line to beacon "C" (a shifting beacon to be erected on the Western boundary line 31 c - 64 a) and thence back to beacon 31 c".

The area of the land thus described shall together with the portions already demarcated and selected be equal in extent to one-third of J.C. and N.J. Breytenbach's holding in the Concession.

(2) F.J. and S.L. Combrink's portion:-

One third of the portion shall be cut off in the North West by a straight line parallel to the North Western boundary of Combrink's portion.

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Perpetual Land Concession No. 15 P.  
-----

The Western boundary of the first selection described in Part II of the said Report page 32 (as published in the Gazette Extraordinary of 24th August 1909) shall be amended and shall be the most easterly tributary spruit of the Holobe Spruit. This boundary will run from beacon 15 Y up this tributary spruit to beacon 15d at its source and thence in a straight line to beacon 15 b.

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Perpetual Land Concession No. 24 P  
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The description of the selection from the portion of this Concession outside of B.C. Lotter's portion as described in Part II of the said Report page 33 (as published in the Gazette Extraordinary of 24th August 1909) shall be deleted and the following description substituted therefor:-

"The other portion shall be selected to the South of a line from beacon P L 63 to a shifting beacon to be so placed on the Western boundary line P L 68 a - P L 68 that the portion thus cut off is together with the portion of Lotter's portion selected, and the portion demarcated as native area, equal to one third of the Concession".

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The Unallotted Lands Concession  
No.133 "Umbandine's Pride".  
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The following boundaries shall be substituted  
for the boundaries of the selection described in  
Part II of the said Report page 33 (as published in  
the Gazette Extraordinary of 24th August 1909)

"One third of Umbandine's Pride shall be selected  
to the North of a line from beacon Hlam 4 (the Southern  
beacon of the selection from UmSwazi's Garden) to a  
shifting beacon S to be placed on the Western boundary  
line 30 a - hlam 6".

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THIRD SCHEDULE

Right of Way No. 2 Peak District,  
"Horo Store Outspan"  
-----

The following boundaries shall be substituted for the boundaries described in Part III of the Special Commissioner's Report dated 23rd July 1909 page 33 (as published in the Gazette Extraordinary of 24th August 1909) -

" A quarter of a square mile in the form of a square bounded on the North by the Northern boundary of Native Area No. 2 on the East and West by lines half a mile in length and distant a quarter of a mile East and West of the Store; and on the South by a line half a mile in length joining the Southern extremities of the Eastern and Western boundaries".

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P R O C L A M A T I O N

BY HIS EXCELLENCY THE HIGH COMMISSIONER.  
-----

WHEREAS it is desirable to provide for the better collection and recovery of rents payable to the Swaziland Administration in accordance with the terms of any Concession;

NOW THEREFORE under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order in Council 1903 as amended by the Swaziland Order in Council 1906 and the Swaziland Order in Council 1909, I do hereby declare proclaim and make known as follows:-

1. In this Proclamation unless inconsistent with the context "Concession" shall mean any grant of land or the use thereof for agricultural, mining, or grazing purposes, or any grant of minerals or mineral products or timber made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908. "Concession Rentals" shall mean and include any rent or other consideration payable to the Swaziland Administration in accordance with the terms of any Concession or in accordance with the terms of any

grant of freehold title made under Section seven of the Swaziland Concessions Partition Proclamation 1907 or under a deed of transfer of such grant but shall not include any monies so payable by way of royalty nor any bonus or rental payable under the terms of any mineral concession and becoming due only upon the happening of some event which has not occurred prior to the taking effect of this Proclamation.

"Concessionaire" shall mean in relation to a concession or to any land held under a grant of freehold title made under Section seven of the Swaziland Concessions Partition Proclamation 1907 or a deed of transfer of such grant the person in whose name such Concession or the freehold title to such land is registered or in cases where such person is insolvent or dead the person in whom the administration of such Concession or land is vested as trustee executor or otherwise.

2. All Concession Rentals shall be paid by the Concessionaires in advance to the Swaziland Administration on or before the first day of January of the year in which they become due; provided that this Section shall not effect the payment of any Concession rentals which become due before the first day of January 1913.

3. If any Concessionaire shall have failed to pay on or before the first day of January in any year the Concession rental payable by him on or before such date under the preceding Section the Swaziland

Administration may cause a demand in writing to be made upon such Concessionaire to pay the amount stated in such demand within fourteen days or such longer period as may be deemed fit after service thereof. And in case any Concessionaire who shall have had such demand delivered to him personally or posted by registered letter to or left at his ordinary place of residence or place of business or office shall make default the said Administration may apply to the Court of Assistant Commissioner having jurisdiction in the district in which the land in respect of which the rental is payable is situate for a summary warrant to recover such rental together with interest as hereinafter provided from the Concessionaire liable to pay the same and may include in one such application rentals recoverable from different Concessionaires. The said Court shall grant such warrant on production of a list of the names and addresses of the Concessionaires so in default and the amounts together with interest as by this Proclamation provided respectively due by them with a certificate by the Government Secretary that they have been severally required to make payment of the said rentals by notice as aforesaid and that such rentals are due by them; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the Court of the Assistant Commissioner.

4. Notwithstanding the provisions of the last preceding Section the Swaziland Administration may at its discretion recover from any Concessionaire in

default (without notice or demand) the amount of the Concession rental and the interest thereon due by such Concessionaire irrespective of the amount thereof by action in the Court of Assistant Commissioner having jurisdiction in the district in which the land in respect of which the rental is payable is situate whether the Concessionaire liable for the same shall be resident within the jurisdiction of such Court or not.

In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such Court as aforesaid then such service shall be effected in such manner as the said Court shall direct.

5. In case any Concession rental which becomes due on or after the first day of January 1913, shall remain unpaid after the date on which the same is required to be paid under Section two of this Proclamation, interest upon the same shall be chargeable and recoverable by the Swaziland Administration at the rate of one-half per cent for every month or portion of a month for which the rental remains unpaid reckoned from the date aforesaid.

6. Anything to the contrary notwithstanding in Section seven of the Swaziland Concessions Partition Proclamation 1907, no freehold title shall be issued to any Concessionaire under the said Section unless and until the Concessionaire shall produce either

(a) a receipt showing that all Concession rentals due under the Concession on which his claim to freehold title is based have been paid, or

(b) a certificate from the Government Secretary to the effect that no such Concession rentals are payable under such Concession.

7. No session, lease, sub-lease or other disposition of, or mortgage or other encumbrances upon any Concession or any land held otherwise than under a Concession shall be registered by the Registrar of Deeds until a receipt or certificate signed by the Government Secretary or other person authorised by the Resident Commissioner shall be produced to the Registrar of Deeds showing that all Concession rentals due in respect thereof with the interest, if any, chargeable thereon, have been paid or that no such rentals are payable in respect thereof.

8. This Proclamation may be cited for all purposes as the "Swaziland Concession Rentals Proclamation 1912", and shall have force and take effect from the date of its publication in the Gazette.

G O D S A V E T H E K I N G !

Given under my Hand and Seal at *Pretoria*  
this *thirtieth* day of *October* One thousand  
the hundred and twelve.



*[Signature]*  
High Commissioner

By Command of His Excellency  
the High Commissioner.

*[Signature]*  
Imperial Secretary.



## PROCLAMATION

BY THE EXCELLENCY THE HIGH COMMISSIONER

WHEREAS it is expedient to alter the regulations controlling the introduction of cattle into Basutoland from the Union of South Africa;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Proclamation No. 7 of 1908 Proclamation No. 22 of 1910 and Proclamation No. 56 of 1910 shall be and are hereby repealed.

2. The word "cattle" as used in this Proclamation shall include any bull ox cow heifer or calf.

3. (i) No person shall introduce or import or cause or allow to be introduced or imported into Basutoland any cattle or hides or skins thereof any reeds grass hay straw kralal manure or any other article likely to act as a carrier of ticks from any area specified in the Schedule to this Proclamation or from any area of land within the Union of South Africa declared under and for the purposes of any provision of the Diseases of Stock Act 1911 of the Union to be infected with contagious abortion, East Coast fever, pleuro-pneumonia (lung-sickness), rinderpest, tuberculosis, anthrax, or any other disease to which cattle are liable which the Governor-General may declare to be a disease for the purposes of the said Act.

(ii) Any cattle and any articles introduced or imported into Basutoland in contravention of this section may be confiscated or destroyed by order of the Resident Commissioner.

(iii) The High Commissioner may from time to time by notice in the *Gazette* amend the Schedule to this Proclamation by adding any area to or withdrawing any area or a portion of any area from the list contained in the said Schedule.

4. No person shall introduce or import or cause or allow to be introduced or imported into Basutoland any cattle from the Province of the Cape of Good Hope unless he has first obtained a declaration in respect of such cattle made within ten days before the departure of such cattle from the district of the Cape of Good Hope from which the same are brought before a Resident Magistrate or a Justice of the Peace of such district by the person in whose possession such cattle then are to the effect that the area from which the cattle in question are being taken is not an area declared to be infected with any of the diseases mentioned in sub-section (i) of section three of this Proclamation under the Diseases of Stock Act 1911 of the Union and that such cattle have not within a period of three months preceding the date of the declaration been within any area declared to be so infected and has caused such declaration to be delivered to the person in charge of such cattle at the time of their introduction into Basutoland.

5. Any person in charge of any cattle introduced into Basutoland from the Province of the Cape of Good Hope shall for a period of three months after the introduction of such cattle into Basutoland carry with him a declaration made in respect of such cattle in accordance with the preceding section and shall on demand made within such period by any police officer member of police chief local headman or other authorized person forthwith produce for inspection such declaration. If such declaration is not produced on demand so made within such period it shall be lawful for the police officer member of police chief local headman or other person aforesaid making the demand to seize and detain such cattle until instructions

shall be received from the Resident Commissioner or an Assistant Commissioner as to the disposal of the same and the Resident Commissioner or an Assistant Commissioner may give such orders and take such steps as to the disposal of such cattle as he may in the circumstances of the case consider necessary or expedient for the purpose of preventing danger of infection.

6. Any person contravening the provisions of this Proclamation shall be subject to a penalty not exceeding two hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months.

7. This Proclamation may be cited for all purposes as the "Basutoland Cattle Importation Proclamation 1912" and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twentieth day of November One thousand Nine hundred and Twelve.

GLADSTONE.

High Commissioner.

put by?  
3907. 2.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

**SCHEDULE.**

The Province of Natal.  
The District of East Griqualand.  
The District of East London.  
The District of Kingwilliamstown.  
The Transkei Native Territories.

(Printed by the Government Printer, Pretoria.)

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No. 47 OF 1912.]

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is desirable to make further provision out of the public revenue of Basutoland to meet certain additional expenditure incurred during the nine months which ended the thirty-first day of March 1912;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. The public revenue of Basutoland is hereby charged with a further sum of £110. 4s. 8d. (one hundred and ten pounds four shillings and eight pence) to meet expenditure incurred during the nine months which ended the thirty-first day of March 1912 in excess of the amounts appropriated for that purpose according to the particulars set forth in the schedule to this Proclamation.

2. This Proclamation may be cited as the Basutoland Further Appropriation (1911-1912) Proclamation 1912 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twentieth day of December One thousand Nine hundred and Twelve.

GLADSTONE,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

### SCHEDULE.

No.	Head of Service.	Amount provided.	Amount expended.	Excess.
3	Post Office.	£3,400.	£3,510. 4s. 8d.	£110. 4s. 8d.

(Printed by the Government Printer, Pretoria.)



## PROCLAMATION

By His Excellency The High Commissioner.

WHEREAS it is expedient to make further provisions with regard to the recruitment of native labourers within the Territory of Basutoland, herein after referred to as "the Territory" and to amend the Basutoland Native Labour Proclamation 1907;

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

1. Every labour agent shall enter into a written contract with every native recruited by him. Every such contract shall be attested by the Assistant Commissioner, or clerk to the Assistant Commissioner, of the district in which the native has been recruited or by any officer of police or by such other person as may be appointed by the Resident Commissioner for the purpose; provided that

- (a) no contract shall be attested unless the attesting officer is satisfied that the terms and conditions thereof are fully understood and accepted by the native concerned and that the native so attested is apparently over the age of eighteen years; and
- (b) no contract shall be attested between any person and any natives obtained or received by him or on his behalf in contravention of the provisions of this Proclamation.

Every labour agent shall produce to the Assistant Commissioner or other attesting officer proof of his authority to enter into the contract.

Any labour agent who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

2. No person (whether the holder of a licence or permit under the Basutoland Native Labour Proclamation 1907 as amended by the Basutoland Native Labour Amendment Proclamation 1907 or not) shall

- (a) induce any native to engage himself for employment by means of misrepresentation as to the nature, terms, or conditions of the employment or any material circumstances connected therewith; or
- (b) by offering higher wages or greater benefits or other inducements persuade or attempt to persuade any native who has been lawfully recruited to desert or repudiate having been so recruited or to break or to repudiate any then existing and binding contract of service whether or not the contract is in writing; or
- (c) harbour, conceal, or assist in harbouring or concealing, or employ any native who to his knowledge has deserted or unlawfully absented himself from service.

Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

3. Any native

- (a) who having entered into a contract for employment beyond the borders of the Territory and signed such contract as provided by section one of this Proclamation without lawful cause deserts or absents himself from his place of employment or fails to enter upon or carry out the terms of his contract of employment; or
- (b) who after in the Territory having entered into an agreement whether oral or in writing with a labour agent and having received an advance in respect thereof accepts another advance from another labour agent in consideration of entering upon any other contract of service before he has completed his terms of service under the first-mentioned agreement;

shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

4. In any proceedings under the last preceding section a copy of any such contract duly signed as provided by section *one* of this Proclamation which is certified as a correct copy by any such officer as is therein mentioned may be produced and shall thereupon be prima facie evidence of the terms of the contract.

5. It shall not be lawful for any labour agent in the Territory to make any advance to any native in excess of the sum or value of two pounds (or such other amount as the High Commissioner may from time to time fix by notice in the *Gazette*) exclusive of any charges for railway transport or any amount due for any native tax or fine advanced by the labour agent and no interest shall be charged by any labour agent on any advance made.

Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

6. Section *fifteen* of the Basutoland Native Labour Proclamation 1907 shall be and is hereby amended by the deletion of the words "in respect of any breach of contract or recovery of wages" and section *eighteen* of the said Proclamation shall be and is hereby amended by the insertion after the words "for service" of the following words "or if any other person domiciled in the Territory" and by the insertion after the words "recover any sum" of the following words "whether in satisfaction of debt or."

7. No labour agent's licence shall be issued in the name of a company, partnership or association of persons.

8. This Proclamation may be cited for all purposes as the Basutoland Native Labour Further Amendment Proclamation 1912 and shall be read as one with the Basutoland Native Labour Proclamation 1907 and the Basutoland Native Labour Amendment Proclamation 1907 and shall take effect from the first day of January 1913.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-third day of December One thousand Nine hundred and Twelve.

GLADSTONE,

High Commissioner.

By Command of His Excellency the  
High Commissioner.

C. H. RODWELL,  
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)



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